



CABINET REPORT

Report Title	ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 - NEW ANTI-SOCIAL BEHAVIOUR POWERS
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	10 December 2014
Key Decision:	YES
Within Policy:	YES
Policy Document:	YES
Directorate:	Customers & Communities
Accountable Cabinet Member:	Cllr David Mackintosh
Ward(s)	Borough wide

1. Purpose

- 1.1 To inform members of the powers available to the local authority under the Anti-Social Behaviour (ASB), Crime and Policing Act 2014.
- 1.2 To suggest that Cabinet recommend to Full Council that changes are made to the Scheme of Delegations in the Constitution to ensure that the functions of the Council under the Anti-Social Behaviour, Crime and Policing Act 2014 are included within the Scheme of Delegations.

2. Recommendations

That Cabinet:

- 2.1 Notes the new powers and interventions provided by the Anti-Social Behaviour, Crime & Policing Act 2014.
- 2.2 Recommends to Full Council that the Scheme of Delegations in the Constitution is amended to include the functions of the Council under the Anti-Social Behaviour, Crime and Policing Act 2014, upon receipt of a report from officers recommending the detail of such changes.

- 2.3 Agrees that the Council should actively contribute to and support the work of the Northamptonshire ASB and Hate Crime Group in developing a county-wide strategy and framework for dealing with anti-social behaviour under the powers provided by the Anti-Social Behaviour, Crime & Policing Act 2014.
- 2.4 Agrees that the maximum fixed penalty level for offences committed under the Anti-Social Behaviour, Crime & Policing Act 2014 is £100, with a discount of £20 for prompt payment.

3. Issues and Choices

3.1 Report Background

- 3.1.1 In March 2014 Parliament passed the ASB, Crime and Policing Act. The Act has received Royal Assent and the commencement date for the majority of the ASB provisions was 20/10/2014.
- 3.1.2 The overarching aim of the Act is to provide more effective powers to tackle ASB. Furthermore, the Act is designed to enable authorities to act at a much earlier stage; some of the tools are very much designed to facilitate early intervention, and in some instances even with the potential to take action before a problem occurs.
- 3.1.3 The Act replaces 19 powers dealing with ASB with 6 broader powers, which are intended to streamline procedures and allow a speedier response to ASB issues. These are outlined in Appendix 1.
- 3.1.4 The purpose of these powers is to make it easier for victims and communities to achieve a positive outcome in addressing ASB, reducing the opportunities for repeat violations. The Act has 14 parts:
- Parts 1-6 deal with ASB
 - Parts 7-10 deal with Dangerous Dogs, Firearms, Protection from Sexual Offences and Prohibition on Forced Marriages.
 - The remainder of the Act addresses policing, extradition, criminal justice and court fees.
- 3.1.5 The new powers see a fundamental change in the way ASB can be tackled with powers that are broader and less prescriptive, but are more open to interpretation. The government have specifically avoided defining ASB in its entirety, but have chosen to apply a specific test to each of the new ASB tools, preferring this to be tested and further specified in case law by their use.
- 3.1.6 The comprehensive detail on how the new powers will be implemented will be contained within a new county-wide strategy.
- 3.1.7 Public Spaces Protection Orders (PSPO's) replace Designated Public Spaces Orders and Dog Control Orders. Existing 'Orders' can remain in place for 3 years following the commencement of the legislation. However, they can be reviewed and amended to reflect the new legislation at any time during the 3 year period. Any new PSPO's will be subject to extensive public consultation.

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

- 3.2.1 A county-wide approach has been formed to respond to the 2014 Act and introduce the new powers. This will ensure consistency and uniformity of approach and utilise resources effectively.
- 3.2.2 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.
- 3.2.3 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.
- 3.2.4 The County Group is engaged in the development of the strategy referred to in 3.1.6 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.
- 3.2.5 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 County 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. It is important to note that the 'Trigger' cannot be used to report general acts of crime, including hate crime and does not replace the council's complaints procedure.

- 3.2.6 To support a multi-agency approach to managing ASB cases, this Council uses a web-based system called E-Cins, managed by Community Safety. This allows NBC, 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 the Anti-Social Behaviour Unit, Neighbourhood Wardens, Environmental Health Officers and some Housing Officers, and is being rolled out to other teams across the Council who have involvement in ASB-related cases.

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

3.3 Issues

- 3.3.2 The Community Protection Notice can be issued by any authorised Council officer, the Police or registered providers of social housing, (if designated by the relevant local authority) to deal with particular problems negatively affecting the community including environmental anti-social behaviour.
- 2.5 In order to ensure that Council officers can lawfully use the powers within and take actions pursuant to the 2014 Act, it is necessary to change the Scheme of Delegations to Officers in the Council's Constitution to ensure that the functions of the Council under the Anti-Social Behaviour, Crime and Policing Act 2014 are included within the Scheme.
- 2.6 It is therefore suggested that Cabinet recommends to Full Council that the Scheme of Delegations in the Constitution is amended to include the functions of the Council under the Anti-Social Behaviour, Crime and Policing Act 2014, upon receipt of a report from officers recommending the detail of such changes.
- 3.3.3 The Act introduces new pieces of legislation for which fixed penalty notices may be used as an alternative to prosecution; the legislation does not prescribe the amount of each fixed penalty except to give an upper limit of £100, nor does it make use of the fixed penalties compulsory. We are able to make the decision as to whether we adopt and use the new fixed penalty notices and set the amount locally.

Fixed penalty notices are a valuable tool to our enforcement officers, enabling us to take clear action on an offence without a full court action, but also leaving the door open to prosecution if not paid. They are a good deterrent to others. As such it is recommended that these fixed penalty notices are adopted.

It is also recommended, to avoid confusion or error that fixed penalty notices are set at £100, with an early payment incentive to reduce cost to £80 if paid within 10 working days.

3.4 Choices (Options)

- 3.4.1 Do nothing – This is not an option as local authorities have a statutory responsibility to respond the Anti-Social Behaviour, Crime & Policing Act 2014
- 3.4.2 Recommend to Full Council, the inclusion of the functions of the Council under the Anti-Social Behaviour, Crime and Policing Act 2014 within the Scheme of Delegation in the Constitution. This will ensure that appropriate officers are designated to enforce the requirements of the legislation.

- 3.4.3 Support the work of the County ASB and Hate Crime Group in developing a county-wide strategy and framework for dealing with ASB under the new powers.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 A new Countywide ASB strategy referred to in 3.1.6. and 3.2.4 is being developed, and this will replace the existing ASB strategy.

4.2 Resources and Risk

- 4.2.1 It is expected that the new powers will be widely publicised and as such expectations on local authorities will rise. This combined with the new community Trigger powers may potentially increase the workload for the Community Safety team, and particularly the Anti-Social Behaviour Unit and also Environmental Health. The full extent of the impact of the new Act will not be known until sometime after introduction. Resource implications will need to be kept under review.
- 4.2.2 Income from any Fixed Penalty Notices has to be spent back on services related to the offence. The income derived will be directly proportionate to the resources deployed in enforcing Fixed Penalty Offences. The maximum fixed penalty notice is £100, and it is recommended that a discount is given for early payment.
- 4.2.3 The risk of not meeting the new statutory obligations can be challenged by way of Judicial Review

4.3 Legal

- 4.3.1 The Act permits NBC and its Partners to use and apply the powers as detailed in the legislation.
- 4.3.2 Section 17 of the Crime and Disorder Act 1998 states it shall be the duty of each authority to exercise its various functions to do all that it reasonably can to prevent, crime and disorder in its area.
- 4.3.3 In order to use the powers and interventions as provided by the Act, amendments are required to the Scheme of Delegation. The Scheme of Delegations is contained within the Constitution. The power to make amendments to the Constitution is reserved to Full Council.

4.4 Equality and Health

- 4.4.1 Incidents of ASB will continue to be dealt with in line with the emerging strategy and in line with our equalities framework.
- 4.4.2 These legislative changes are designed to have a significant community impact in preventing and limiting anti-social behaviour.

4.5 Consultees (Internal and External)

- 4.5.1 LGSS Legal Services
- 4.5.2 LGSS Finance
- 4.5.3 Portfolio Holder for Community Safety
- 4.5.4 Director of Customers & Communities
- 4.5.5 Head of Communities & Engagement
- 4.5.6 Environmental Health Manager
- 4.5.7 Housing Services Manager

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The act and the emerging strategy will contribute to the achievement of corporate outcomes and associated strategies as follows:-

Invest in safer, cleaner neighbourhoods by creating an attractive, clean and safe environment - 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 town.

Creating empowered communities by increased capacity of our partners in the voluntary sector to better support communities - The revised strategy will ensure that partners will have a standard and formalised approach to responding to the problems associated with ASB.

Community Safety Partnership Strategy - to provide a quality service for the victims, ensuring that effective processes and procedures are put in place, supported by robust partnership engagement.

Partnership Working - The working relationships between the council and its partners for community safety are strong and the act and revised countywide strategy will help to formalise and strengthen the joint work required to deal with ASB effectively.

5. Background Papers

Home Office: Anti-Social Behaviour, Crime and Policing Act: Reform of anti-social behaviour powers. Statutory Guidance for frontline professionals
<https://www.gov.uk/government/publications/anti-social-behaviour-crime-andpolicing-bill-anti-social-behaviour>

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