



**Report of the Cabinet Members for  
Stronger Communities & Housing, Energy & Building Services**

**Cabinet – 15 March 2018**

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

<b>Purpose:</b>	<p>To provide Cabinet with an overview of the new Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>To consider authorisations required to implement the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.</p>
<b>Policy Framework:</b>	<p>Section 17 of the Crime and Disorder Act 1998. Anti-Social Behaviour, Crime and Policing Act 2014 Council's Anti-Social Behaviour Policy</p>
<b>Consultation:</b>	<p>Cabinet Members, Corporate Management Team, Access to Services, Finance, Legal.</p>
<b>Recommendation(s):</b>	<p>It is recommended that:</p> <ol style="list-style-type: none"><li>1) Cabinet delegates to the Corporate Directors for People, Place and Resources authority to exercise, in consultation with the Cabinet Member for Stronger Communities, the new powers available to the Council to tackle anti-social behaviour as set out in this report</li><li>2) Cabinet delegates to the Corporate Directors for People, Place and Resources authority, in consultation with the Cabinet Member for Stronger Communities, to commence proceedings for civil injunctions, issue Community Protection Notices, create Public Space Protection Orders and issue closure orders for 24 hours together with authority to issue Fixed Penalty Notices under Part 4 Chapter 1 of Anti-Social Behaviour Crime and Policing Act 2014</li><li>3) Authority be delegated to the Head of Legal and Democratic Services and Business Intelligence to make applications for any necessary extension of the closure order for 24 hours or to make applications for the grant an order for a 48 hour period</li></ol>

- 4) Cabinet delegates to the Corporate Directors for People, Place and Resources authority to approve the level for Fixed Penalty Notices (FPN) in conjunction with advice from officers from Legal, Democratic Services and Business Intelligence and Finance

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## 1. Purpose of the Anti-Social Behaviour, Crime and Policing Act 2014

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) received Royal Assent on 13<sup>th</sup> March 2014. Most provisions relating to anti-social behaviour were brought into force on 20<sup>th</sup> October 2014.
- 1.2 The Act is intended to simplify and provide more effective powers to tackle anti-social behaviour (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.
- 1.3 This report will consider the new powers for tackling anti-social behaviour. Although the Act reduces the current number of powers available to tackle ASB from nineteen to six, the new provisions are intended to provide a more flexible and broader range of powers dealing with ASB. **Appendix 1** is a chart showing the old powers and new replacement powers.
- 1.4 The Home Office has produced statutory guidance <sup>1</sup> for frontline professionals on dealing with ASB under the new Act. The guidance is clear that councils, police, social landlords and other agencies will work together to help in resolving issues more quickly
- 1.5 A summary of the new powers and duties available under the Act are set out in **Appendix 2**. The following paragraphs set out in more detail where the Council can use the powers and the authorisations required by officers to enable them to exercise these new powers.

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<sup>1</sup> **Anti-social behaviour powers:** Statutory guidance for frontline professionals  
Updated December 2017

## **2. Civil Injunction**

- 2.1 This is a civil order to prevent anti-social and nuisance behaviour which can be housing related or non-housing related.
- 2.2 The injunction can be obtained against anyone who is aged 10 years and over. The injunction 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 or bullying. It can include positive requirements to address the underlying causes of the anti-social behaviour in addition to clauses that prohibit anti-social and nuisance behaviour. Breach of an injunction is considered contempt of court
- 2.3 Adults can be sentenced for up to two years in prison or an unlimited fine. Young people can be sentenced to supervision or activity requirements, detention of up to 3 months for 14-17 year olds. 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.

## **3. Community Protection Notice**

- 3.1 The Community Protection Notice (CPN) is intended to deal with particular ongoing problems or nuisances that negatively affect the community's quality of life by targeting those responsible. The CPN can be issued by the Council, police or social landlord if designated by the Council to issue Notices.
- 3.2 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 recipient 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.
- 3.3 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 council officer can issue a 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.. 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.

## **4. Public Space Protection Order**

- 4.1 Public Spaces Protection Orders (PSPOs) 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 Act gives councils the authority to

draft and implement PSPOs in response to the particular issues affecting their communities, provided certain criteria and legal tests are met.

- 4.2 The legislation provides for restrictions to be placed on behaviour that apply to everyone in that locality (with the possible use of exemptions). A PSPO can cover multiple restrictions so one order could prohibit such activities as the drinking of alcohol and keeping dogs on a lead. The PSPO can cover any public space within the Council's area. Breach of a PSPO without a reasonable excuse is an offence.
- 4.3 PSPOs differ from other powers introduced under the Act as they are council-led, and rather than targeting specific individuals or properties, they focus on the identified problem behaviour in a specific location. Before making an Order the Council must consult with local police and Police and Crime Commissioner and the owner or occupier of the land
- 4.4 Councils can use PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area.
- 4.5 Powers to create PSPOs came into force in October 2014. As well as enabling local authorities to address a range of different issues, the Orders replace Designated Public Place Orders (DPPOs), Gating Orders and Dog Control Orders. Existing orders remained in force until 19<sup>th</sup> October 2017 or until they were discharged by the Council, whichever was earliest. Any Orders still in force on 20<sup>th</sup> October 2017 have automatically become PSPOs
- 4.6 The Council previously had one DPPO and two Gating Orders. Dog Control Orders remain in place for Parks and Beaches.

The DPPO is giving powers to stop the drinking of alcohol in public spaces. It is for Castle Square and High Street and was requested by City Centre Management and authorised by Corporate Services and Legal. This has automatically become a PSPO with effect from the 20<sup>th</sup> October 2017

The Gating Orders were one from High Street to Orchard Street made in December 2013 and one for the Lanes at the rear of Danygraig Road, Gelli Street and Tymawr Street, Port Tenant which came into operation on Friday, 23<sup>rd</sup> July 2010.

- 4.7 Breach of a PSPO is a criminal offence which can result in the issuing of a FPN or a prosecution resulting in a fine of up to £1,000 on conviction. Enforcement can be taken by Council officers, other groups the Council may designate, police officers and Police Community Support Officer (PCSOs).
- 4.8 It is important to take advantage of the new changes to fully explore the new powers and consult with other agencies including the police to

assess the most effective use of PSPOs across the Council area. It is proposed that a further report will be brought to Cabinet reviewing the current situation in relation to Castle Square and High Street. The report will be collated in consultation with relevant partners and stakeholders and evidence collated to establish the need for an order to continue.

## **5. Closure Order**

5.1 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 to appeal.

5.2 A closure notice for 24 hours can be issued by a council officer or a police officer. If a longer period of up to 48 hours is needed, the notice must be served by the Head of Legal, Democratic Services and Business Intelligence. 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.

5.3 It is proposed that in consultation with relevant Directors and Cabinet Members that they be authorised to issue 24 hour closure notices and that the authority to extend the 24 hour notice or issue 48 hour notices is given to the Head of Legal, Democratic Services and Business Intelligence.

## **6. Policy Implications**

6.1 The new powers will support the Council to tackle anti-social behaviour and crime, improve the environment and support the creation of safer and stronger communities.

6.2 Statutory consultation including an equality impact assessment will be necessary before considering an order under the new powers.

## **7 Equality and Engagement Implications**

7.1 Local data related to cases of anti-social behaviour does not identify any particular group with a protected characteristic as being disproportionately affected by anti-social behaviour. Consequently, the impact of this legislation is considered to be neutral as far as the equality impact is concerned. Case data will be developed to ensure that monitoring takes full account of groups with a protected characteristic.

## **8. Financial Implications**

8.1 There are no immediate financial or resource implications arising.

## **9. Legal Implications**

9.1 The legal implications are as set out in the report.

### **Background Papers: None**

Appendices:

<b>Appendix 1</b>	Chart outlining Old Powers and how they translate to the New Powers
<b>Appendix 2</b>	New Powers in detail
<b>Appendix 3</b>	EIA