

Subject:	Anti-Social Behaviour Crime and Policing Act 2014		
Date of Meeting:	Housing Committee		
Report of:	Executive Director of Environment Development and Housing		
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Ward(s) affected:	All		

FOR GENERAL RELEASE/ NOT FOR PUBLICATION**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 In 2010, the Home Office carried out a review of the measures available to practitioners for responding to anti-social behaviour (ASB) which concluded that there were too many options available, that the options were bureaucratic, slow and expensive and that the growing number of people who breached their ASB Order suggested the potential consequences were not deterring a persistent minority and the methods that were designed to help perpetrators deal with underlying causes of their anti-social behaviour were rarely used.
- 1.2 The Home Office set in motion legislation to put in place a new approach designed to ensure that local authorities, the police and partners have faster, more flexible tools to respond to problems with victims at the heart of the response. The resulting Anti-Social Behaviour, Crime and Policing Act was given Royal Assent on 13th March 2014 and came into effect on various dates in 2014 with the main provisions regarding antisocial behaviour were understood to be coming into force in January, but no commencement order has yet been made.
- 1.3 This report seeks to inform Members about the new provisions for tackling anti-social behaviour contained within the Anti-Social Behaviour, Crime and Policing Act 2014.

2. RECOMMENDATIONS:

- 2.1 That Housing Committee Notes the changes to anti-social behaviour tools brought about by the Anti-Social Behaviour, Crime and Policing Act 2014 as described in this report.

3. CONTEXT/ BACKGROUND INFORMATION

The Act covers a range of matters: parts 1 to 6 introduce new measures for responding to anti-social behaviour ; part 7 addresses dangerous dogs and makes amendments to the Dangerous Dogs Act 1991. Please see appendix 1 for a more detailed summary.

3.1 New Tools and Powers

The Act replaces nineteen pre-existing measures with six new measures and introduces a new absolute ground for possession of secure and assured tenancies associated with anti-social behaviour or criminality and amends and extends the discretionary grounds for possession. It introduces two measures designed to give victims and communities a say in the way antisocial behaviour is dealt with.

- **Injunction**

Replacing Housing Act injunctions and the Antisocial Behaviour Order (ASBO). Previously the court would normally not grant an injunction against someone under the age of 18. Now an injunction can be made against anyone aged 10 or over

- **Criminal Behaviour Order (CBO).**

Replacing the ASBO on conviction. The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court.

- **Dispersal Power.**

Replacing the existing Section 30 Dispersal Order and Section 27 Direction to Leave.

The dispersal power is a flexible power which the police can use to deal instantly with someone's behaviour and stop a problem before it escalates.

- **Community Protection Notice (CPN).**

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.

It is intended to be a wide ranging power to be used to deal with low /medium and serious situations. It is intended to be used in situations where a nuisance has been reported but it doesn't trigger an application for an injunction. CPNs can be used to tackle a wide range of problem behaviours including graffiti, rubbish and noise

- **Public Spaces Protection Order (PSPO).**

Replacing existing Litter Clearing Notice; Street Litter Clearing Notice; Graffiti/Defacement Removal Notice; Designated Public Place Order; Gating Order;

Public spaces protection orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular 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. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. They are similar to by-laws.

- **Closure Power.**

Replacing the ASB Premises Closure Order; Crack House Closure Order; Noisy 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.

- **Absolute Ground For Possession**

The Act also introduces a new absolute ground for possession of Secure and Assured tenancies associated with anti-social behaviour or criminality.

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 be granted a possession order, but instead courts must grant possession if the landlord followed the correct procedure and can demonstrate at least one of the specified conditions below is met. These are:

- A conviction for a serious criminal offence
- A court order finding a person in contempt of court for breaching an injunction made under the Act
- Breach of a Criminal Behaviour Order
- Obtaining a premises closure order
- A conviction for breach of an abatement notice

- **Discretionary grounds for possession**

In an application under a discretionary ground for possession the court only makes a possession order if the ground is proven and it is reasonable to do so.

Introduction of a new discretionary ground for possession and an amendment to an existing ground.

- **Community Trigger**

The purpose of the community trigger is to give victims, who can be an individual, business or a community group, the right to request a review of their case if they have previously reported the issues to a relevant agency and feel that nothing has been done. The threshold can be set locally and Brighton and Hove Community Safety Partnership has set the threshold as being that a person has reported three separate incidents within the past six months.

When a case meets these criteria the complainant is informed within three working days and the case reviewed and outcomed within ten working days with recommendations made where appropriate.

- **Community Remedy**

The community remedy is intended to give victims a say in the out-of-court punishment of perpetrators of low-level crime and ASB. Each local policing body has prepared a community remedy document for its area detailing a list of interventions that form the local remedy actions.

The remedy may be used in relation to an individual who :

- a) engaged in anti-social behaviour or has committed an offence and;
- b) is to be dealt with for that behaviour or offence without court proceedings.

A police officer may use the community remedy if it is felt to be appropriate. It is envisaged this will be used when dealing with low-level criminal damage, low-value theft, minor assaults (without injury) and ASB.

3.2 Implications

- 3.2.1 The Act is intended to enable authorities to take faster and more effective actions to stop those making victims' lives a misery. The statutory guidance accompanying the Act states that "the welfare, safety and wellbeing of victims whose complaints form the basis of any action must be the main consideration at every stage of the process", and that the right response will depend on a range of factors but most importantly, on the needs of the victim and on the impact the behaviour is having on their lives.
- 3.2.2 This represents a decisive shift in the approach that landlords and the police are to take towards case action and resolution measures from existing practice of seeking to sustain the tenancy, if achievable and practical whilst ending the ASB as soon as possible, to one where Housing is to develop its case actions around the victims' experience and give greater weight to victims' needs, and early resolution, and less weight to the interventions of allowing time for developing behaviour change and tenancy sustainment. However the council and the police will still be required to have regard to the Equality Act 2010 and the Human Rights Act 1998 in how the new powers are implemented, in relation to the perpetrators as well as the victims of ASB. Until the new legislation is tested in Court we will not be clear as to the extent to which the balance will shift.
- 3.2.3 It is likely to be that, in a number of serious cases, there will be increased enforcement action and it is possible that a limited number of very serious and complex cases may be ended through fast time actions including use of the mandatory ground or closure.
- 3.2.4 We have very high densities of vulnerable households living in our social housing stock. Many perpetrators of ASB are vulnerable and can be victims as well as perpetrators of nuisance. It is the case that under the application of the new legislation, the most difficult/complex and intransigent cases are more likely to result in legal action to end a tenancy and that a number of such cases will be individuals or households with complex needs that sit across a number of services such as social services (children and families, learning disabilities), mental health services, and substance misuse services. There is therefore likely to be an increased demand for suitable alternative accommodation including supported accommodation, specialist mental health accommodation to enable us to avoid homelessness and a need for improved joint working between agencies to achieve best outcomes for individuals.
- 3.2.5 ASB in council housing stock is managed by the Tenancy Enforcement Team who work closely with the police and other council departments to ensure a solution focused multi-agency approach to dealing with cases of ASB and nuisance which seeks to reduce impacts on the victims of crime and minimise costs to the local authority and the police. ASB in temporary accommodation is managed by a dedicated Anti Social Behaviour Officer and in non council stock by the Community Safety Team. Housing are also in dialogue with the Commissioners of accommodation for those with complex needs to ensure the risk of greater demand for specialist accommodation is considered as part of future commissioning plans.

- 3.2.6 Statutory Agencies in the City have been operating a Victim and Witness Support and Risk based approach to supporting victims of ASB since 2011. This has been intended to ensure that needs and concerns of the victim are at the heart of decision making in relation to tackling ASB, that risk to them is actively reduced through proactive work usually involving multiple agencies, and that they are provided with adequate support to enable them to go through the process of bringing ASB to an end. This has been very successful with high satisfaction rates as to how ASB cases have been dealt with. In 2013 – 14 satisfaction rates were 96%).

One of the primary criticisms of statutory agencies is the length of time that it can take to bring cases to court where this is the only option for ending ASB. The powers outlined in the new Act do have the potential to lead to a reduction in the time taken to obtain possession and further improvements for residents who are suffering ASB and nuisance.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 This report outlines new Statutory legislation and is for noting. There are therefore no alternative options for consideration.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The report was taken to Housing Area Panels in January 2015. Area Panel delegates generally welcomed the report and hoped it would help enhance safety and security, in particular within high rise blocks where there have been recent issues. Clarification was sought as to what would happen to people evicted as a result of anti social behaviour – this would depend upon individual circumstance.

6. CONCLUSION

- 6.1 The new ASB Crime and Policing Act 2014 introduces new powers to statutory agencies to streamline existing legislation.
- 6.2 The new powers are likely to enable improved performance in tackling ASB but could place additional pressure on temporary and specialist accommodation providers.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1

For the Housing revenue Account (HRA), it is possible that there could be extra legal costs during 2015/16, as more cases are brought to court, resulting in a budget pressure for the HRA. It is very difficult to quantify the financial effect of these legislative changes on the HRA and as such these costs will be managed through the Targeted Budget Management (TBM) process during 2015/16 and built into the budget for 2016/17, if necessary.

There are also possible cost implications for the general fund housing budgets and for Social Care budgets if individuals with complex needs need to be rehoused. Again, this situation will be monitored through the TBM process and any potential pressures identified at an early stage.

Legal Implications:

- 7.2 The new Act can be described as a consolidation act. It has tried to simplify the range of other orders previously available and has included a range of new powers.
- 7.3 The powers under the Act are exercisable in relation to Housing land without any formal delegation to the Housing Committee or Executive Director of Environment Development and Housing, although it is proposed that the Act will be referred to by name in a forthcoming review of the council's constitution.
- 7.4 The Act also introduces a new Fixed Penalty Notice scheme for certain types of behaviour. There will need to be a clear policy around this.
- 7.5 As has been highlighted in paragraph 3.2.2, the use of the Act's powers by the council will have to be in accordance with the Equality Act and the Human Rights Act. Some of the powers may well be viewed as draconian (eg the Closure Order powers) and as such the decisions relating to their use will need to be reasonable and proportionate. The council will also need to be alive to those who may have capacity issues. In such cases, consideration of the Mental Capacity Act may also be required.

Lawyer Consulted:

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Date: 12/12/14
Date: 6/02/15

Equalities Implications:

- 7.6 Application of the provisions of the Act will be consistent with the provisions of the Equality Act 2010 and the Human Rights Act 1998.
- 7.7 Provisions within the Act enable statutory bodies to take quicker action to deal with ASB. It is likely that this will result in improved outcomes and service delivery for individuals with protected characteristics

Sustainability Implications:

- 7.8 The way in which tenancies are managed encourages stable neighbourhoods, with teams dealing effectively with anti-social behaviour to enable this.

Crime & Disorder Implications

- 7.9 Implementation of the Act will help the council and the police prevent crime and disorder and the council fulfil its statutory obligations under the Crime and Disorder Act 1998.

SUPPORTING DOCUMENTATION

Appendices:

1. ASB Crime and Policing Act 2014 – details of new powers

Documents in Members' Rooms

None

