

ANTI-SOCIAL BEHAVIOUR CRIME & POLICING ACT 2014

Cabinet Member: Cllr Colin Slade
Responsible Officer: Head of Housing & Property Services

Reason for Report: To update Members on changes introduced by reforms of the new Anti-social Behaviour, Crime and Policing Act 2014

RECOMMENDATION(S):

1. That the PDG recommend to Cabinet the adoption of the Anti-social Behaviour, Crime and Policing Act 2014.
2. That delegated authority is given to Chief Executive for the appointment of Officers under the Act and to coordinate a consistent level of fines across all Devon authorities.

Relationship to Corporate Plan: The wellbeing and safety of Mid Devon communities.

Financial Implications: Public expectation of action on the issues covered by the Anti-social Behaviour, Crime and Policing Act 2014 is high. However there has been no additional funding provided. Training and staffing will have to be undertaken with existing resources. Where there are matters that require additional funding these will be dealt with on a case by case basis and bids submitted through subsequent budgets for expenditure.

Legal Implications: This new legislation gives Local Authorities new and extended powers to take quicker action much earlier on in cases of anti-social behaviour. Failure to implement the new legislation may result in increases of anti-social behaviour which will have a detrimental effect on the community.

Risk Assessment: Risk assessments will be carried out as part of the drawing up of operational policy.

1.0 Introduction

- 1.1 The reforms contained within the Anti-Social Behaviour, Crime and Policing Act 2014 are designed to put victims as the heart of any response to anti-social behaviour, and give Councils, Police and Social Landlords a wider and more flexible provision to deal with any given situation. The Act came into effect on 20 October 2014 – except for the Civil Injunctions which have been delayed until early 2015.
- 1.2 In particular, the Act places a new duty on the Council and Partners with respect to Community Triggers which give victims and communities the right to request a review of their cases and bring agencies together to take a joined

up, problem solving approach to find a solution. In line with other Devon Districts, this trigger will be managed via the Community Safety Team.

- 1.3 The purpose of this report is to provide an update of the new powers to Members for information and put delegated powers in place.

2.0 **Anti-social Behaviour, Crime and Policing Act 2014**

- 2.1 The new tools and powers subject of the Act, which has been in the planning process since the coalition Government took office, finally came into force on 20 October 2014. The sections which will have an impact on Mid Devon District Council are as follows:

2.2 **Civil Injunction (CI)**

- a) The purpose of the injunction is to stop or prevent individuals from engaging in anti-social behaviour and to put a stop to such behaviour quickly. It replaces Anti-social Behaviour Orders (ASBOs), Anti-social Behaviour Injunctions and Drinking Banning Orders etc.
- b) Applicants include social landlords, local councils and the Police and proceedings are carried out in the County Court as opposed to the Magistrates Court which previously dealt with ASBOs and Drinking Banning Orders. Applications for CI's for persons under 18 years of age will be made at the Youth Court.
- c) A breach of a CI is a civil contempt of court and a person over 18 can be given an unlimited fine or up to 2 years imprisonment.
- d) The CI will include prohibitions but can also include positive requirements to get the offender to address the underlying cause of their behaviour.
- e) There is no power of arrest unless there is or has been the use of or threatened use of violence or there is significant harm to others from the respondent.

NOTE: This part of the legislation has been delayed so that processes to allow under 18 year olds access to legal aid can be put in place, and is likely to come into effect from early 2015.

Potential Impact for the Council

The CI can be applied for by Mid Devon District Council. Our legal department is used to dealing with the County Court in terms of evictions, Anti-social Behaviour Injunctions etc so they are well versed in the ways in which the court works. There will of course be court costs in respect of such applications. However the court itself will not be used to dealing with this type of injunction therefore at this time nobody is too sure how quickly the court can hear these cases bearing in mind that the Government clearly intends that agencies 'nip things in the bud' by the use of such CI's.

2.3 **Community Protection Notice (CPN)**

- a) The purpose of the CPN is to stop a person aged 16 or over, a business or organisation from committing anti-social behaviour which spoils the community's quality of life. They can be issued by Council Officers, Police Officers, Police Community Support Officers if designated by the Chief Constable, and by Social Landlords if designated by the Council. At this stage it is not proposed to provide powers to the Social Landlords within

Mid Devon, rather work closely with them to resolve their issues, including support on the CPNs. This in line with decisions of other District Authorities across Devon.

- b) The behaviour has to have a detrimental effect on the quality of life of those in the locality, be of a persistent nature, and be unreasonable.
- c) A written warning will be issued in the first instance to the offender and if the behaviour continues a CPN will be issued which will include a requirement to stop doing certain things, to do certain things, or to take reasonable steps to avoid further anti-social behaviour.
- d) Breach of the CPN is a criminal offence and the person could be summonsed to appear before the Magistrates Court if the behaviour is serious. However it is anticipated that a breach of the Notice will more than likely result in a Fixed Penalty Notice being issued before court proceedings are considered. Across Devon Districts have consulted and agreed the amount to be charged by Mid Devon District Council for a Fixed Penalty Notice will be £100.00, with no deduction for early payment.

Potential Impact for the Council

The CPN can be used for different types of anti-social behaviour but mostly for that considered to be environmental. For example, persons who persistently cause noise, fly-tip, deposit litter, deface localities with graffiti and allow their dogs to foul. This therefore means that a lot of the issues being addressed are ones which Mid Devon District Council would ordinarily deal with. The act also allows for councils to carry out works in default on behalf of an offender thereby incurring costs.

Once a CPN is issued and breached doing nothing in terms of sanction is not an option. It therefore important that serious consideration is given to the type of sanction before the issue of such notices and therefore some coordination is required. Meetings with representatives from other agencies have been held and a general agreement is in place that the Anti-social Behaviour Officer will provide local coordination.

2.4 **Public Spaces Protection Order (PSPO)**

- a) This is designed to stop individuals or groups from committing anti-social behaviour in a public place. They can be issued by councils following consultation with the Police, Police and Crime Commissioner and other relevant bodies.
- b) The PSPO replaces the Designated Public Place Orders, which were designed to stop anti-social drinking in public places, Dog Control Orders etc. Councils will be responsible for making the new PSPOs on any public space within its own area although enforcement will be much broader.
- c) As with the CPN the behaviour has to have, or is likely 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.
- d) Breach is a criminal offence and enforcement can be by Council Officers, Police Officers or PCSO's. A Fixed Penalty Notice can be issued but if court proceedings take place a fine only can be imposed.

Potential Impact for the Council

Clearly the onus is upon councils, such as Mid Devon District Council, to use this legislation. A PSPO has a maximum duration of 3 years and can prohibit certain activities such as the drinking of alcohol and not having

dogs on leads. There is therefore a cost implication in terms of producing and erecting signs and removing the signs which are subject of the old legislation. The old legislation will continue to be valid for 3 years after the commencement of the new power but will be treated as a PSPO. There could be further cost implications if somebody decides to challenge a PSPO in the High Court, although such cases would probably be extremely rare.

2.5 Closure Power

- a) The purpose is to allow the Police or Councils to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder.
- b) This is similar to the old legislation whereby once the criteria are met either the Police or the Council can issue a notice which can close the premises to all bar the existing occupants. However, an application for an order has to be heard by the Magistrates Court within 48 hours. The Court, if satisfied, can grant an order closing the premises to everybody including the tenants, householders, house owners etc, for up to 6 months.
- c) A breach of the notice or order is a criminal offence punishable by up to 6 months imprisonment or an unlimited fine.
- d) The act also introduces a new absolute ground for possession which means that once the Magistrates Court grants a Closure Order, if the council decides to seek repossession of the property, which in the majority of cases it will, then the County Court would have to grant the council possession notwithstanding it is contested.

Potential Impact for the Council

Court costs in making the application against a tenant, costs to close the premises and board them up and potentially costs in defending an appeal to the Crown Court against the making of an Order.

2.6 Community Trigger

- a) In addition the new legislation has introduced the Community Trigger which gives victims and communities the right to request a review of their case and to bring agencies together to take a joined up problem solving approach to find a solution.
- b) The relevant bodies and responsible authorities are district and unitary councils, the Police, Clinical Commissioning Groups and social housing providers.
- c) The threshold has been defined by local agencies and in order to activate the trigger there should be more than three complaints about the individual case in the previous 6 months (most recent incident within the last month). The police are the lead agency and have taken on the initial calls and the recording of the trigger requests. Relevant publicity will be issued by the office of the Police & Crime Commissioner about requesting the Trigger via the non-emergency 101 telephone number.

Potential Impact for the Council

Mid Devon District Council is one of the main local agencies involved in tackling anti-social behaviour, whether it be through the Anti-social Behaviour Officer, Housing Officers, Environmental Health Officers etc and therefore the trigger could be activated if somebody perceives that their complaints have not be dealt with satisfactorily. It is agreed that the

Community Safety Partnership will oversee such complaints and decide on the correct use of the trigger in the East and Mid Devon areas. This will not replace existing complaints procedures regarding the individual agencies and should not be treated as such.

2.7 Criminal Behaviour Order (CBO)

- a) The CBO can be issued by any criminal court against a person who has been convicted of an offence and its purpose is to deal with individuals who persistently engage in anti-social behaviour. It is very similar to the ASBO on conviction which is known as the CRASBO, which become obsolete as the new act comes into force.
- b) The prosecuting agency will in most cases be the Crown Prosecution Service (CPS) either on its own initiative or following a request from a council or more often than not from the Police. In some cases councils could be the agency applying for the CBO.
- c) As with the Civil Injunction the CBO will include prohibitions but can also include positive requirements to get the offender to address the underlying cause of their behaviour.
- d) Breach of the CBO is a criminal, offence for which a person over 18 years of age can be sentenced to a term of imprisonment depending on whether the case is dealt with at a Magistrates or a Crown Court.

Potential Impact for the Council

There could be occasions when the Council will be the applicant and therefore court costs will be involved. Also there is the possibility of outsourcing the case to other solicitors or barristers thereby incurring more costs. More often than not the CPS will apply for the orders at the request of the Police working in partnership with councils and other agencies.

2.8 Other Powers not directly affecting the Council - Power to Disperse

2.8.1 The Police now have a better power to enable them to disperse persons and this power can be used in a range of situations. It is a flexible power which is designed to provide immediate short term respite to a local community. It can be used by Police Officers in uniform and Police Community Support Officers have also been delegated the powers by the Chief Constable.

2.8.2 The Police can require a person committing, or likely to commit, anti-social behaviour, crime or disorder to leave an area for up to 48 hours.

Contact for more Information: Julia Ryder or Laura Maksymczuk on 01884 234996/7 or email communitysafety@middevon.gov.uk

Circulation of the Report: Cllr Colin Slade, Management Team

List of Background Papers:

- Anti-social Behaviour, Crime & Policing Act 2014
- Anti-social Behaviour, Crime & Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professionals: July 2014. The background papers are available for inspection and kept by the author of the report.