

ANTI SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 – IMPLEMENTATION OF PROVISIONS

Relevant Portfolio Holder	Cllr Peter Whittaker
Portfolio Holder Consulted	Yes
Relevant Head of Service	Judith Willis, Head of Community Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	No
Key Decision / Non-Key Decision	No

1. SUMMARY OF PROPOSALS

- 1.1 The purpose of this report is to provide an overview of the Anti Social Behaviour, Crime and Policing Act 2014, as updated in December 2017 and highlight any changes in the statutory Home Office guidance which are likely to have a direct impact on the Council.
- 1.2 The report also proposes a series of amendments to the Council's Scheme of Delegation to enable this Council to best utilise and implement the ASB tools and powers under the Act.

2. RECOMMENDATIONS

The Cabinet is asked to RECOMMEND that

- 2.1 **The powers available to the Council under the Anti Social Behaviour, Crime and Policing Act 2014, as amended in Dec 2017 are noted;**
- 2.2 **The Council's Scheme of Delegation is amended, in accordance with recommendations outlined in Section 3.6 of this report, to allow relevant officers to apply these tools and powers.**

3. KEY ISSUES

Financial Implications

- 3.1 There are no direct financial implications arising from this report. Should additional resources be required in the future, any requests will be subject to the Council's normal budget approval process.

Legal Implications

- 3.2 The Anti Social Behaviour, Crime and Policing Act 2014 came into force in October 2014, with further statutory guidance issued by the Home Office in December 2017. The Act introduced changes to how local agencies deal with anti social behaviour, streamlining the tools available to them so that they can be

more effective. The 19 tools and powers provided in the previous Anti Social Behaviour Act 2003, were reduced to just 6 in the 2014 Act.

- 3.3 In order for this Council to effectively apply its powers under the 2014 Act, amendments to the Council's Scheme of Delegation are recommended.

Service / Operational Implications

- 3.4 The Anti Social Behaviour, Crime and Policing Act 2014, provides the following tools and powers which are of relevance to this Council and support the Strategic Purpose 'Keep My Place Safe and Looking Good':

- a) Civil Injunction (Sec. 1 – 21 of the Act) – is a way of stopping individuals from engaging in anti social behaviour by either prohibiting certain activity or requiring some positive intervention. An Injunction is sought against an individual who is causing nuisance or annoyance within a housing related context or whose anti social behaviour is causing harassment, alarm or distress elsewhere (i.e. non-housing related). To include a positive requirement within the terms of an injunction the Council must (i) believe it is necessary; (ii) have the resource to make it happen; and (iii) have a named individual or organisation that will ensure compliance with the requirement.
- b) Criminal Behaviour Order (Sec. 22 – 33 of the Act) – gives agencies the power to deal with the hard core of persistently anti social individuals who also engage in criminal activity. The court may make a criminal behaviour order against an offender, on conviction of **any** offence, if two conditions are met: (i) the person has also engaged in behaviour that caused or was likely to cause harassment, alarm or distress to one or more persons; and (ii) the court considers that making the order will help in preventing the offender from engaging in such behaviour.
- c) Dispersal Power (Sec.34 - 42 of the Act) – allows police officers to direct people to leave a public place and not return for a specified time (maximum 48 hours) if two conditions are met: (i) the police officer has reasonable grounds to suspect that, the presence or behaviour of the person in the locality has contributed to or is likely to contribute to members of the public in the locality being harassed, alarmed or distressed, (or the occurrence crime or disorder); and (ii) the police officer considers that giving a direction to leave is necessary, for the purpose of removing or reducing the likelihood of anti social behaviour, crime or disorder. The police officer may also require the surrender of any item being used to harass, alarm or distress members of the public.
- d) Community Protection Notice (CPN) (Sec. 43 – 58 of the Act) - prohibits persons aged 16 or over, businesses or organisations from committing anti social behaviour, which has a detrimental effect on the quality of life of those in the locality. The CPN can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti social behaviour occurring again. In these cases the behaviour must be of a persistent or

continuing nature and be unreasonable. CPNs replaced measures such as litter clearance notices, defacement control notices and street litter control notices.

- e) Public Space Protection Order (PSPO) (Sec. 59 – 75 of the Act) – is used to stop individuals or groups from committing anti social behaviour in a public space, which has, or is likely to have a detrimental effect on the lives of those in the area. The restrictions and requirements of the order are set by the council and these can be blanket restrictions or requirements that are targeted against certain behaviours by certain groups at certain times. Orders can also restrict access to public spaces (including certain types of highway) where that route is being used to commit anti social behaviour. This tool replaces Designated Public Place Orders, Gating Orders, and Dog Control Orders and can be enforced by police officers, police community support officers and authorised council officers. **(See Appendix A)**
- f) Closure Power (Sec. 76 – 93 of the Act) – This power allows the police or council to close a premises quickly if it is being used, or is likely to be used, to commit nuisance or disorder. A Closure Notice is issued out of court in the first instance and following this the Closure Order can be applied for through the courts. The Notice can close premises for up to 48 hours out of court but cannot stop the owner or those who habitually live there from accessing the premises. The Order can close premises for up to six months and can restrict all access. Both the Notice and the Order can cover any land or any other place, whether enclosed or not, including residential, business, non-business and licensed premises. Breach of a Notice or an Order is a criminal offence with a sentence of up to three months in prison for breach of the Notice and up to six months for breach of an Order. Both can also attract an unlimited fine for residential and non-residential premises
- g) The Act also contains legislation, which is pertinent to the Council's Registered Providers of Social Housing, for the Recovery of Possession of Dwelling Houses, (Sec. 94 – 100) enables relevant landlords to expedite the eviction of anti social tenants in order to bring faster relief to those affected by their behaviour. This measure gives absolute ground for possession of secure and assured tenancies in specific cases of anti social behaviour or criminality, as long as certain conditions have been met and the landlord has also complied with its legal obligations
- h) The Community Remedy, (Sec. 100 – 103 of the Act) gives victims a say in the out of court punishment of perpetrators for low level crime and anti social behaviour. This tool is used by the Police, in consultation with their relevant partners and the Community Remedy document is produced and published by the Police and Crime Commissioner.
- i) The Community Trigger / ASB Case Review, (Sec. 104 – 105 of the Act) gives victims of ASB the ability to request action, starting with a review of their case, where a locally defined threshold is met. The West Mercia Police and Crime Commissioner has given permission locally for North

Worcestershire Community Safety Partnership to deal with all ASB Case Reviews /Community Triggers. The locally agreed threshold is that the Case Review/Trigger can be activated if a victim has made three or more reports relating to the same anti social behaviour problem in the past six months to the Council, Police or a Registered Housing Provider (Social Landlord) and they feel that no action has been taken. Or, at least three individuals and/or groups in the local community have made reports about the same problem in the past six months to the Council, Police or Registered Housing Provider (social landlord) and they feel that no action has been taken. The Case Review/Trigger can also be requested on behalf of someone else if their written consent is obtained.

- 3.5 **Appendix B** sets out more detailed information about each of the key provisions of the Anti Social Behaviour, Crime and Policing Act 2014, as updated in December 2017.

Proposed Amendments to Council's Scheme of Delegation

- 3.6 In order to enable all relevant Council officers to utilise the powers under the Act, the following amendments to the Council's current Scheme of Delegation are recommended:

- a) That the Head of Community Services, in consultation with the Principal Solicitor be given delegated authority to seek a Civil Injunction in accordance with Sec. 1 – 21 of the Anti Social Behaviour, Crime and Policing Act 2014.
- b) That the Head of Community Services, the Head of Environmental Services, the Head of Worcestershire Regulatory Services and the Head of Planning and Regeneration Services be given delegated authority to serve Community Protection Notices, (and Fixed Penalty Notices in the event of a breach) in accordance with Sec. 43 – 58 of the Anti Social Behaviour, Crime and Policing Act 2014.
- c) That the Head of Community Services, Head of Environmental Services and Head of Leisure and Cultural Services be given delegated authority to initiate and implement the consultation process required to make a Public Space Protection Order in accordance with Sec. 59 – 75 of the Anti Social Behaviour, Crime and Policing Act 2014.

As recommended in the amended statutory guidance, the decision to make a Public Space Protection Order will be put to Cabinet/Council.

- d) That the Head of Community Services, the Head of Environmental Services, the Head of Planning and Regeneration Services and the Head of Worcestershire Regulatory Services be granted delegated authority to issue a Closure Notice (up to 48 hour) and to apply for a Closure Order in

accordance with Sec. 76 – 93 of the Anti Social Behaviour, Crime and Policing Act 2014.

Customer / Equalities and Diversity Implications

- 3.7 The Act provides opportunities to improve how the Council deals with anti social behaviour, providing a variety of tools and powers that help the Council and its community safety partners to resolve issues in the community quickly and effectively. The Act also enables the Council to continue to work closely with its partners to achieve the best results for its residents and provides a mechanism by which agencies actions can be scrutinised by those directly affected by anti social behaviour.
- 3.8 Use of these ASB tools and powers will have a positive impact on residents and customers affected by anti social behaviour, including members of minority communities that may be targeted by harassment for a variety of reasons.

4. RISK MANAGEMENT

- 4.1 The Council has a statutory duty to exercise its functions with due regard to the effect of those functions on crime, disorder, ASB and reoffending. The Council must also do all it reasonably can to prevent crime, disorder, ASB and reoffending throughout the District. Failure to appropriately implement the powers and tools available to the Council to address these issues could result in the potential for legal challenge by those affected by crime and disorder. There is also the potential for reputational damage to the Council.

5. APPENDICES

Appendix A – NWCSP Briefing Paper on Public Space Protection Orders

Appendix B – Provisions of the Anti Social Behaviour, Crime and Policing Act 2014, as updated in December 2017

6. BACKGROUND PAPERS

Anti Social Behaviour, Crime & Policing Act 2014 – Updated Statutory Guidance from the Home Office (Dec 2017)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679712/2017-12-13_ASB_Revised_Statutory_Guidance_V2.1_Final.pdf

CPS - Criminal Behaviour Orders Legal Guidance

<https://www.cps.gov.uk/legal-guidance/criminal-behaviour-orders>

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