

TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY SAFETY ADVISORY BOARD

21 October 2014

Report of the Director of Central Services

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014, INCLUDING THE COMMUNITY TRIGGER

1.1 Background

1.1.1 The Anti-social behaviour, Crime and Policing Act 2014 will become law on 20 October 2014. The Act is intended to introduce simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities. The Act will also tackle irresponsible dog ownership and the use of illegal firearms by gangs and organised criminal groups, strengthen the protection afforded to the victims of forced marriage and those at risk of sexual harm, enhance the professional capabilities and integrity of the police and amend the port and border security powers.

1.1.2 However, the overarching aim of the Act is to provide more effective powers to tackle anti-social behaviour (ASB): protect victims and communities and treat the underlying behaviour of perpetrators. The Act replaces 19 existing powers dealing with anti-social behaviour with 6 broader powers, streamlining procedures to allow a quicker response to ASB. The government envisages that these powers will make it easier for victims and communities to take action against ASB and reduce repeat violations.

1.2 New powers contained within the Act

1.2.1 As mentioned, the Government has streamlined the current 19 powers down to 6. The main changes are to the Anti-social behaviour order (ASBO) which will be replaced by a civil injunction. The **civil injunction** will be a civil power available in the county court for adults and the youth court for 10 to 17 year olds. It will allow a wide range of agencies, including the police, local councils and social landlords to make applications. Breach by someone aged 10 to 17 would result in a curfew, activity or supervision requirement, or as a last resort, custody for up to three months for someone aged 14 to 17. Breach by an adult could result in up to two years in prison. We have recently been informed that due to changes required to the civil legal aid system, the Civil Injunction will not commence until at least January 2015.

- 1.2.2 The **criminal behaviour order** will be available following a conviction for any criminal offence in any criminal court. Breach of the order will be a criminal offence, with a maximum sentence of five years in custody for adults and up to a two-year detention and training order for those under 18, replicating the current ASBO sanctions. This will demonstrate to the offender and the community the seriousness of the breach, and, as it is an order on conviction, there is no risk of criminalising someone for the first time for breach of a civil order.
- 1.2.3 The **community protection notice** will be issued to deal with a particular problem negatively affecting the community. It could be used against a person, business or organisation committing ASB which spoils the community's quality of life (for example graffiti, littering, dog fouling or using a skateboard somewhere inappropriate). The notice could be issued by the police, council officers and social landlords to stop persistent, unreasonable behaviour that is detrimental to the amenity of the locality or is having a negative impact on the local community's quality of life. It is intended to deal with particular, ongoing problems or nuisances which negatively affect a community's quality of life by targeting those responsible.
- 1.2.4 The **public spaces protection order** will provide councils with a flexible power to put in place local restrictions to address a range of ASB issues in public places, and prevent future problems. It is designed to stop individuals or groups committing ASB in a public place. This would be different to the current situation as one order would be able to cover a number of issues, rather than needing to follow separate processes for each - reducing bureaucracy and cost for local authorities. This would be enforced by a Police Officer, PCSO (possibly) and Council officers. A breach would be a criminal offence and the Order would last for three years.
- 1.2.5 The **Closure Power** will provide the police or local authority with new, simpler, closure powers, consolidating four of the powers already available to them. The Closure powers will allow the police or council to quickly close premises which are being used, or are likely to be used to commit nuisance or disorder. The power comes in two stages, the closure notice and the closure order. The closure notice can be issued for 48 hours without going to a Court. With every issue of a closure notice an application must be made to the magistrate court for a closure order. The courts are required to hear the application within 48 hours of serving the notice. A closure order can close the premises for up to six months and can restrict all access. A breach of the notice could result in three months in prison and a breach of an order could lead to up to six months in prison. Both could also lead to fines.
- 1.2.6 The **Dispersal Power** will enable police officers to require a person who has committed, or is likely to commit, anti-social behaviour to leave a specified area and not return for a specified period of up to 48 hours. This will only be available for police officers in uniform to use and PCSOs could also use if designated by the

Chief Constable. Use of a Dispersal power must be authorised by an officer of at least the rank of inspector before use.

- 1.2.7 As well as those powers mentioned above there will also be a **New Absolute Grounds for Possession** power and this is intended 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 grant possession but instead courts must grant possession if the landlord followed the correct procedure and at least one of the specified conditions is met.

1.3 Empowering Victims

- 1.3.1 The Government are keen to ensure that communities feel 'empowered' and to do this they have introduced two new tools, a Community Trigger and a Community Remedy.

- 1.3.2 The **Community Trigger** is a way of allowing the public to request a review of the actions taken around ASB complaints. The Community Trigger criteria is:

"At least three separate incidents reported to the relevant bodies within the previous six months. The ASB must be a repeat of the same or similar incident which was reported within one month or the alleged incident taking place".

Work is going on to ensure that this Threshold is the same across Kent and that the processes (web forms etc.) to be used are also the same. Annex 1 shows the threshold and procedures as discussed by the Kent Community Safety Partnership.

- 1.3.3 If someone feels that they have met the Trigger criteria then they will need to complete an application form which will ask for details about the reports that have been made. Members of the Community Safety Unit will then check to see if the evidence presented is correct and if it meets the threshold then a Panel will need to meet to review the case and look at the actions that were (or were not) taken. That panel can then make recommendations to other agencies (although those agencies will be under no obligation to accept them). The Panel must include representatives from the Borough Council, the Police, Clinical Commissioning Groups and Social Landlords who are co-opted onto the Panel.
- 1.3.4 The **Community Remedy** will give victims of low-level crime and anti-social behaviour a say in the punishment of offenders out of court. It will be a list of actions that the victim will be invited to choose from when a community resolution is to be used. The offender must have given an admission of guilt and it must be appropriate for a Community Remedy to be used. The Community Remedy is entirely voluntary.

1.4 Implications for the Borough Council

- 1.4.1 Borough Council staff have met to begin considering the implications of these new powers and how the Borough Council may use them. Officers will be putting together procedures for each relevant tool which will include information about how and when the Borough Council could use the tools. Once we have this document in place then each Service will look to use the appropriate tools. It is unlikely that this work will be in place by 20 October but we are aiming to be ready as soon as possible.
- 1.4.2 Work is also being undertaken within the Community Safety Partnership to prepare for the introduction of the Community Trigger. We are currently working with the Borough Council's IT department to get an on-line application form ready and we are also looking at how we will assess each application. We have agreed that the Panel meetings will be held monthly and will review each application which has passed the Threshold. At present we do not know how many applications we will receive and we need to ensure that we do not become overwhelmed with applications.
- 1.4.3 The new tools are additional tools that can be used by a variety of partners to help tackle anti-social behaviour but it is important to remember that they will not suddenly prevent anti-social behaviour. We need to ensure that public expectations are not raised unduly but that they can continue to be confident that the Borough Council (and partners) are doing all we can to help resolve any anti-social behaviour issues they may be experiencing.

1.5 Legal Implications

- 1.5.1 The Borough Council's Legal Department will be providing advice and guidance on ensuring we meet all requirements.

1.6 Financial and Value for Money Considerations

- 1.6.1 There may be financial considerations for the Council if we decide to apply any of the new powers. This would need to be considered on a case by case basis

1.7 Risk Assessment

- 1.7.1 All appropriate risk assessments will be carried out.

1.8 Equality Impact Assessment

- 1.8.1 See 'Screening for equality impacts' table at end of report

1.9 Recommendations

- 1.9.1 That Board members NOTE the contents of the Anti-social behaviour, Crime and Policing Act.

The Central Services Director confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Alison Finch

Nil

Adrian Stanfield
Central Services Director

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	Work of the CSP includes a focus on helping vulnerable people, including victims of domestic abuse and hate crime. The Community Trigger will help vulnerable people who may have been a victim of anti-social behaviour.
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.