

Meeting:	Cabinet	Date:	15 October 2014
Subject:	Anti-social Behaviour, Crime and Policing Act 2014		
Report Of:	Cabinet Member for Communities and Neighbourhoods		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1: Summary of new Anti-Social Behaviour Powers		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To provide an update on the new anti-social behaviour (ASB) tools being introduced through the Anti-social Behaviour, Crime and Policing Act 2014. A further report will follow outlining our approach to implementation once the Act has come into force.

2.0 Recommendations

- 2.1 Cabinet is asked to note the new tools and powers being introduced and is asked to **RESOLVE** that the community trigger is implemented in the city of Gloucester as outlined in paragraphs 3.12 – 3.17.

3.0 Background and Key Issues

- 3.1 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 are too many options available and practitioners tend to stick to the ones that they are most familiar with;
 - Some of the formal options available, particularly the Anti-Social Behaviour Order (ASBO), are bureaucratic, slow and expensive, which puts people off using them;
 - The growing number of people who breach their ASBO suggests the potential consequences are not deterring a persistent minority from continuing their anti-social behaviour; and
 - The methods that were designed to help perpetrators deal with underlying causes of their anti-social behaviour are rarely used.
- 3.2 The Home Office subsequently consulted on proposals to reform the policy framework for dealing with ASB in 2011; leading to the publication of a White Paper, Putting Victims First – More Effective Responses to Anti-Social Behaviour, in 2012,

The Home Office indicated that the intention of its proposals was to “*move away from having a tool for every different problem*” to 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*”.

- 3.3 The Anti-Social Behaviour, Crime and Policing Bill subsequently progressed through Parliament and the resulting Act received Royal Assent on 13th March 2013. The Act encourages collaborative working between agencies and it covers a range of matters including:
- New measures for responding to anti-social behaviour
 - Dangerous Dogs
 - Firearms
 - Protection from sexual harm and violence
 - Forced marriage
 - Various Policing matters
 - Extends the Extradition Act 2003 and
 - Introduces changes to the criminal justice and court fees.
- 3.4 The Act introduces simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities. There is also new legislation for the mandatory possession of homes, enabling Gloucester City Homes (GCH) and other landlords to evict secure tenants in specific cases of ASB.
- 3.5 It also sets out a new community trigger and a community remedy which will empower victims and communities, giving them a greater say in how agencies respond to complaints of ASB and with options in out-of-court sanctions for offenders.
- 3.6 The commencement date for the new powers has been announced as 20 October 2014.
- 3.7 In Gloucester anti-social behaviour is taken seriously and we are already using the multi- agency approach to tackling ASB problems through Project Solace. Project Solace is an innovative service which has changed the way agencies work in partnership to tackle ASB in Gloucester.
- 3.8 Project Solace is a multi-agency team consisting of 2 Officers from Gloucestershire Constabulary and an ASB Officer from Gloucester City Council whose sole purpose is to tackle high level ASB and prevent incidents of ASB within the private sector of the City.
- 3.9 Project Solace has been nationally recognised as an industry exemplar and has received the following accolades:
- Regarded as national best practice by the Audit Commission
 - Regarded as an example of best practice by the National Police Improvement Agency (NPIA) and Her Majesty's Inspectorate of Constabulary
 - Housemark Social Crime and Landlords Nuisance Group Project Solace Best Practice Award Winner in managing Anti Social Behaviour - November 2012

- Finalists in the 2012 Housing Heroes Award for Groundbreaking Service Team of the Year.

3.10 Through this partnership we are one of only a few Councils that have successfully used Gang Injunctions against 2 individuals. We therefore welcome this move to encourage agencies to work together as we do in Gloucester and to simplify and streamline antisocial behaviour legislation.

Putting victims first

3.11 The Act includes two new measures which are designed to give victims and communities a say in the way anti-social behaviour is dealt with: the community trigger and the community remedy.

3.12 The **Community Trigger** (ASB Case Review) gives victims the ability to demand action, starting with a review of their case, where the locally defined threshold is met.

3.13 Relevant bodies are councils, police, clinical commissioning groups in England and registered providers of social housing if co-opted into this group

3.14 It is proposed, in line with Home Office Guidance, that the threshold for the Community Trigger in Gloucester will be:

- Three or more separate incidents of ASB reported in the previous six month period and the victim feels that they have not received a satisfactory service, or
- five individual complaints from a neighbourhood about the same behaviour within a previous six month period. These complaints can be made to different organisations.

3.15 A procedure for using the community trigger is being developed with our partners Gloucestershire Police and Project Solace. The procedure will be published and will include the point of contact for making an application to use the community trigger.

3.16 A pilot scheme has been carried out in Cheltenham and Tewkesbury. This will assist with how the community trigger procedure will be set up across Gloucestershire and within each district council area.

3.17 The basic procedure will be:

- A victim of ASB makes an application to use the community trigger
- An independent third party (it is currently proposed that this will be Restorative Gloucestershire) will co-ordinate and request information from the relevant bodies to decide whether the threshold is met
- If the threshold is met, Restorative Gloucestershire will meet with the relevant bodies and share information about the case. They will consider whether any new relevant information needs to be obtained, review previous actions taken and propose a response. The victim is then informed of the outcome and, if necessary, the agencies will work with the victim to devise and implement an action plan

- The outcome will be reviewed until the action plan has been met and, if necessary, the case can be escalated for further review.
- 3.18 The community trigger review will be built into our existing multi-agency ASB steering group meetings which is chaired by the police.
- 3.19 The **Community Remedy** is intended to give victims a say in the out-of-court punishment of offenders for low-level crime and ASB.
- 3.20 There is a requirement for each local policing body, with the Police and Crime Commissioner (PCC), to prepare a community remedy document for its area. This document is a list of actions any of which might, in the opinion of the local policing body, be appropriate in a particular case to be carried out by a person who:
- Has engaged in ASB or who has committed an offence; and
 - Is to be dealt with for that behaviour or offence without court proceedings
- 3.21 In Gloucester we are already widely using restorative justice and it is therefore proposed that the community remedy will be delivered through the use of Restorative Gloucestershire by appropriately trained and authorised people. Gloucestershire Constabulary and Restorative Gloucestershire already have established procedures in place for the use of restorative justice. It is not intended that the community remedy replace these procedures but that the community remedy will extend this service and sit between the current restorative justice process and the formal criminal justice process. The community remedy will be a police led tool.

More effective powers

- 3.22 The new legislation replaces the 19 existing powers with six new powers, as outlined in Appendix 1:
- 3.23 These new powers have been designed to be flexible, allowing professionals to adapt them to protect victims in a wide range of situations. The new powers will work best when complemented by more effective ways of working – in particular, working in partnership, sharing information and using early and informal interventions.
- 3.24 The new powers are summarised below and in Appendix 1. Further detail can be found in the statutory guidance at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332839/StatutoryGuidanceFrontline.pdf

Injunction to Prevent Nuisance and Annoyance (IPNA)

- 3.25 The IPNA is a civil power which can be applied for by a range of agencies to deal with anti-social individuals. This now includes individuals aged 10 and over not just adults. Agencies that can apply for IPNAs include district councils, housing providers, and Police. Applications must be made to a youth court for those aged under 18 and to the county court or High Court in all other cases. The IPNA can prohibit the offender from doing prescribed things (prohibitions) and require them to

do certain things (requirements). The requirements should aim to tackle the underlying causes of the anti-social behaviour and could include such things as attending an anger management course, participating in substance misuse awareness sessions or attending a job readiness course.

- 3.26 Breach of an IPNA is not a criminal offence. For adults, a breach is dealt with by a civil contempt of court and breach proceedings for under 18s are dealt with by the youth court.

Criminal behaviour order (CBO)

- 3.27 The CBO is available on conviction for any criminal offence in any criminal court. It is similar to the IPNA and can include prohibitions and requirements. However, unlike the IPNA, it is a criminal offence to fail to comply with an order without reasonable excuse. Breaches of CBO by those aged under 18 will be dealt with by the youth court. In all other cases, the offence will be considered by the magistrates court or Crown Court.

Community protection notice (CPN)

- 3.28 The CPN is intended to deal with particular, on-going problems, or nuisances that negatively affect the community's quality of life by targeting those responsible. CPNs can be used to tackle a wide range of problem behaviours including graffiti, rubbish and noise. It can be issued against any person over the age of 16 or a body, including businesses. The Home Office note that councils already take the lead in dealing with these kinds of issues. In addition to designated council officers, CPNs can also be issued by police officers and police community support officers. A person found guilty of failing to comply with a notice without reasonable excuse is liable to a fine of up to £2,500 (£20,000 in the case of a body)

Public spaces protection order (PSPO)

- 3.29 The PSPO is 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 an area which apply to everyone. This could include, but is not restricted to, placing restrictions on the use of parks, alleyways or communal areas to prevent problems with misuse of alcohol, dogs or noise. District Councils will be responsible for making a PSPO but police officers and police community support officers can also play a role in enforcing the orders. It is an offence to fail to comply with an order without reasonable excuse and can result in a fine of up to £1,000.
- 3.30 The Act provides the ability for authorised local authority officers, police and police community support officers to issue a fixed penalty notice for failure to comply with both a CPN and a PSPO as an alternative to prosecution. The amount of the fixed penalty notice can be set by the local authority but cannot exceed £100.
- 3.31 In addition existing designated drinking places orders (DPPOs) will be treated as PSPOs.

Closure powers – closure notice and closure order

- 3.32 The closure power can be used by local authorities and the police to close premises that are causing nuisance and disorder. The power comes in two stages. The closure notice can be used out of court to provide short term relief up to a maximum of 48 hours. The notice can then be extended upon application for a closure order to the magistrates' court for a period of up to three months. At any time before the expiry of the closure order, an application may be made to the court for an extension (or further extension) of the order up to a total of six months.

Police dispersal power

- 3.33 The police dispersal power requires a person committing or likely to commit ASB, crime or disorder to leave an area for up to 48 hours. This is a flexible power that can be used by the Police in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community.

Mandatory ground for possession

- 3.34 The purpose of the new absolute ground for possession of a dwelling house 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 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 (as set out in Appendix 1).

4.0 Alternative Options Considered

- 4.1 Not applicable as the requirements are set out in legislation.

5.0 Reasons for Recommendations

- 5.1 The relevant bodies must work together to implement the new tools and powers and the community trigger procedure. There are existing processes that the community trigger can be built into.

6.0 Future Work and Conclusions

- 6.1 For the new tools and powers to be effective, it is important to work closely with partners. Gloucestershire Constabulary are leading a project to understand and develop the necessary business processes needed. A number of work streams have been identified by the police – some are purely police related but others are partner based.
- 6.2 The city council is involved with the ASB case review work stream that is seeking to identify how the new powers will be dealt with and how this will interact with other agencies.
- 6.3 Project Solace is also involved in this work stream and we will be working with them to develop our processes.

7.0 Financial Implications

- 7.1 There may be additional financial implications in making applications for injunctions and legal fees. The impact will not be known until the legislation is in place and the powers used.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 Implications are dealt with within the main body of this report. As with any new legislation, the council will have to consider how case law evolves, and will also have to consider whether it is appropriate to delegate any of its powers under the legislation in due course. Policies, including the enforcement policy, will also have to be amended to reflect the new legislation once it is in force.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 As this is new legislation, the council and its partners will need to review how it progresses on a case by case basis.

10.0 People Impact Assessment (PIA):

- 10.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 The new ASB legislation is integral to the work of the community safety partnership.

Sustainability

- 11.2 None.

Staffing & Trade Union

- 11.3 None.

Background Documents: None