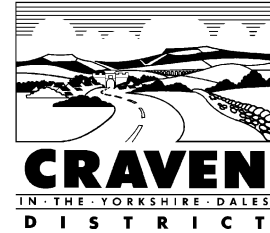


Policy Committee – 7 June 2016

ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014



Report of the Corporate Head (Business Support)

Lead Member: Resilient Communities

Ward(s) affected: All

1. Purpose of Report

To advise the Committee of the measures available to deal with anti-social behaviour set out in the Anti-Social Behaviour Crime and Policing Act 2014 ('the Act'), and to ask members to approve the delegation of the powers available to the Council to named senior officers, so that the provisions of the Act may be effectively applied across the District.

2. Recommendations

Policy Committee is invited to:

- 2.1 Note the powers available in the Act and agree that they should be implemented by the Council with immediate effect.
- 2.2 Approve the delegation of the exercise of these powers and duties under the Act to the Director of Services, and the Corporate Head (Business Support), who will consult with relevant ward councillors in specific cases.
- 2.3 Additionally approve the delegation of the exercise of the powers - to the Director of Services and the Corporate Head (Business Support) - to authorise in writing appropriately qualified and competent officers to issue Community Protection Notices, and/or Fixed Penalty Notices for breaches of Community Protection Notices and Public Space Protection Orders.
- 2.4 Recommend that the terms of reference for the Select Committee to provide for the Select Committee to review the effectiveness of any Public Space Protection Orders annually. Any review will need to be subject to consultation.

3. **Background**

The Act replaced a very wide range of powers available under previous legislation (ASBOs, drink banning orders, S161 of the Licensing Act closure orders, dog control orders, etc), but provided more scope for simpler, focused enforcement action to be taken by local councils across a wider definition of 'anti-social behaviour' than previously. In particular the Act provides more scope for councils to tackle behaviours that unreasonably impact on the lives of others.

There is now significant relevance for environmental health officers, and licensing officers, to request the application of these powers in a range of circumstances, for example, when dealing with premises-related problems, and domestic noise nuisance, by using Criminal Behaviour Orders, injunctions and Community Protection Notices. More detail is provided below and in the Appendix.

Community Protection Notices (CPNs)

A CPN can be issued in cases where a person aged over 16 years old, business or organisation is committing acts of anti-social behaviour which spoils the community's quality of life. A CPN can require that someone stops doing a specified act, do a specified act, or take reasonable steps set out in the Notice. It is an offence to fail to comply with a CPN. Once appropriate authorised officers are in place the Council can issue Fixed Penalty Notices for breaches of CPNs in appropriate cases. The focus remains on targeted, proportionate action. However, there is an assumption that CPNs would be used more widely across a range of areas of alleged infringement.

Community Trigger

The legislation also introduced the concept of the 'Community Trigger' which gives members of the public a means for seeking a formal review of how their complaints have been handled (by councils and the police).

Public Space Protection Orders (PSPOs)

Local councils (District/Unitary) are also able to make PSPOs under the Act. A specific order can be issued following consultation with the police, other relevant bodies and community representatives. The PSPO is designed to stop individuals committing anti-social behaviour in a public place by addressing a specific 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. Once made, a PSPO will make the area concerned welcoming to law abiding residents or visitors, but at the same time place restrictions, that target specific people, apply at certain times or in certain circumstances.

It is a criminal offence for a person, without reasonable excuse, to do anything that they are prohibited from doing by a PSPO, or failing to do anything that they are required to do.

The maximum time limit for a PSPO is three years, at which point it has to be reviewed, although it can be reviewed at any time and extended for a further three years. There is no limit on the number of extensions, but consultation has to be carried out at the review point as with a new PSPO.

4. Implications

4.1 Financial and Value for Money (vfm) Implications

Reform of the arrangements to deal with anti-social behaviour streamlined some 19 previous powers down to a more effective five (for local councils) , reduced bureaucracy and hence time and effort, and allowed councils to respond far more quickly to the needs of victims.

There will be some marginal financial cost in implementing some measures (for example the procurement and erection of the necessary signage - in the case of a PSPO), but it is anticipated that these costs will be contained within existing budgets.

4.2 Legal Implications

These proposals have been discussed with the Council's legal adviser who is content, and has explained that it is essential that specific authorisations are approved so as to reduce the risk of any challenge to the imposition of Fixed Penalty Notices.

Parliament has approved the Act so as to assist local authorities in dealing with the problem of anti-social behaviour. If the Council does not implement the provisions in the Act, including delegation of the functions requested on this occasion, this will mean that the Council is unable to lawfully and adequately respond to the problem of anti-social behaviour that occurs from time to time in the District, and causes a particular nuisance for residents.

4.3 Contribution to Council Priorities

If approved, these measures will directly contribute to the Council's priority of providing Resilient Communities for the District, making Craven's public spaces cleaner, safer, and greener, *'Adopting and working with relevant agencies to implement the powers contained in [the Act], to protect communities from anti-social behaviour'*.

4.4 Risk Management

If the recommendations are not approved, the Council will be unable to adequately respond to the problem of anti-social behaviour, and the Council may invite unwelcome criticism for not fully implementing the provisions provided by Parliament, that have in fact been available (but not formally approved for use in the District), since October 2014.

4.5 **Equality Analysis**

The legislation was subject to an impact assessment at the Bill stages. Where appropriate, as individual powers are exercised relevant impact assessments will be considered (for example under the Equality Act and the Public Sector Equality Duty).

5. **Consultations with Others**

These proposals are supported by the local police, the Safer Craven multi-agency problem solving group, a ward councillor, and other officers of the Council, including Environmental Health, and Legal Services (who are content with the legal issues arising from the proposals outlined in this report).

6. **Access to Information : Background Documents**

Anti-social behaviour, Crime and Policing Act: 2014: Reform of anti-social behaviour powers (Statutory Guidance for frontline professionals – Home Office)

Anti-Social Behaviour, Crime and Policing Act 2014 (Suggested guidance, North Yorkshire)

7. **Access to Information : Background Documents**

Anti-social behaviour, Crime and Policing Act: 2014: Reform of anti-social behaviour powers (Statutory Guidance for frontline professionals – Home Office)

Anti-Social Behaviour, Crime and Policing Act 2014 (Suggested guidance, North Yorkshire)

8. **Author of report**

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Please note : Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

9. **Appendix**

Summary of powers provided in the Act.

Appendix - Summary of powers provided in the Act

The Anti-social Behaviour, Crime and Policing Act 2014 replaced the previous 19 powers available to – predominantly - the police and local councils, to tackle anti-social behaviour in communities with six, more flexible, powers (five of which can be applied by local councils):

Injunctions to prevent Anti-social Behaviour - In a housing setting, the injunction can be used to prevent an individual from causing nuisance and annoyance (including in private accommodation). This is similar to previous Anti-social Behaviour Injunction (ASBI) which it replaced. An injunction can also be applied for to prevent an offender from causing harassment, alarm or distress and can be applied for by many agencies. Injunctions are a civil power and require the civil standard of proof; they too can include positive requirements. Breach is contempt of court.

Criminal Behaviour Orders (CBO) - this replaced the previous criminal Anti-social Behaviour Order (ASBO) as well as other criminal orders. On the Order, there is now opportunity to require the offender to undertake positive interventions such as peer mentoring; anger management etc.

Community Protection Notices (CPN) - Can require an individual or organisation to stop doing an activity or to undertake activities to stop behaviour which is causing people in a locality harassment, alarm or distress. Both the police or local council can issue a CPN and they can be used for issues which are not considered to be Statutory Nuisance. Breach can be dealt with by a Fixed Penalty Notice or through the magistrates' court.

Public Space Protection Orders (PSPO) - Replaced alcohol restriction zones and dog control orders but can and should be used more widely than the powers they replaced. An area can have one order in place with a number of prohibitions. Breach can be dealt with by a Fixed Penalty Notice or through the magistrate's court; enforcement can be undertaken by either the police or local council (or person designated by council). The maximum duration of a PSPO is three years, but they can be reviewed at any time and extended for a further three years (there is no limit on the number of times a PSPO can be extended). Consultation must be carried out when reviewing.

Closure Notices for premises associated with nuisance or disorder - very similar to the closure powers it replaced but the police or council can issue a closure notice on premises which shuts it down or prohibits access for up to 24hours. Magistrates can award an order to close for 3 months.

Police dispersal power - replaced the previous s27 and s30 powers, with Inspector authorisation, can require a person to leave an area for up to 48 hours in order to prevent anti-social behaviour occurring.

The Act also introduced the:

Community Trigger – which gives a person(s) who has reported 3 separate anti-social behaviour incidents to either police, council, or housing provider (if appropriate) in a 6 month period, and is unhappy at how the case has been dealt with, the right to request agencies to review the case and make recommendations for action if necessary. Community Groups or a third person such as MP can request a review on behalf of multiple victims with their consent.

and

Community Remedy – this is a statutory responsibility of the Police and Crime Commissioner and is a document that, following public consultation, provides a “menu” of sanctions and actions that a low level anti-social behaviour offender who has admitted the offence can undertake at the choice of the victim.