

CHESHIRE EAST COUNCIL

Cabinet Member for Communities

Date of Meeting: 20th July 2015
Report of: Steph Cordon – Head of Communities
Subject/Title: Anti-Social Behaviour Crime and Policing Act 2014
Portfolio Holder: Cllr Les Gilbert, Communities

1. Report Summary

- 1.1 Cheshire East Council is an Enforcing Council and proud to be one that is tough on residents that are selfish and cause harm to others. The new ASB Tools and Powers provide us with new ways to put our Residents First and to reduce anti-social behaviour in our communities.
- 1.2 The Council leads a multi-agency ASB Unit, which delivers a preventative service, contributing to significant reductions in reported ASB across the borough. In the last 3 years, the number of incidents of ASB in Cheshire East recorded by Police has reduced by 14%.
- 1.3 The Anti-Social Behaviour Crime and Policing Act 2014 streamlined a set of previous tools which were used to tackle a wide range of behaviours. Fourteen previous tools and powers have been streamlined into seven new tools, of which all are now in effect.
- 1.4 This report briefs on the seven new powers, and gives further detail to those that are relevant for the Council.
- 1.5 The focus of this report is on the Public Spaces Protection Order (PSPO) and the Community Protection Notice (CPN). A protocol (Appendix 1) which will be subject to review has been drafted for both of these powers for approval.

2. Recommendations

1. That the Cabinet Member agrees to:
 - a) approve the procedures set out in Appendix 1 to enable the Council to use these powers effectively and swiftly.
 - b) approve the setting of Fixed Penalty Notice for breaches of these two powers (PSPO and CPN) at a set fee of £100 (maximum fine)
2. That Cabinet be asked to note the decision.

3. Other Options Considered

- 3.1. In addition to the new tools and powers, we have a range of interventions available to us that are unaffected by the new Act. For example: Acceptable Behaviour Discussions, Acceptable Behaviour Contracts, Mediation face to face meetings and letter warnings. Before using the new tools and powers, we always consider the outcome we are seeking to achieve as this will help to determine which is the most appropriate tool to be used.

4. Reasons for Recommendations

- 4.1. A clear local procedure should be in place before seeking to implement any of the new powers. The two powers within this report are the main powers for which we need to implement local procedures.
- 4.2. The Portfolio Holder has authority to sanction such procedures and the setting of new fines for the Fixed Penalty notices

5. Background

- 5.1. As an Enforcing Council, we have always taken a proactive approach to tackling ASB, and our joint work has a significant impact on improving the quality of life for our residents.
- 5.2. In the last three years, the ASB Team's workload has steadily increased, from 93 new cases opened in 2012/13 to 154 opened in 2014/15.
- 5.3. As well as open cases with known perpetrators of ASB, the team delivers preventative work with young people. This is principally through the issuing of "Yellow Cards" and warning letters to parents. In the three years 2012/13 to 2014/15, 3132 Yellow Cards have been submitted and 2816 warning letters sent. In over 98% of cases, the young people in receipt of these interventions did not go on to receive further interventions from the team.
- 5.4. In the last three years, the number of incidents of ASB in Cheshire East recorded by Police was 14239 (2012/13), 13490 (2013/14) and 12288 (2014/15). This equates to a 14% reduction over three years.
- 5.5. The Anti-Social Behaviour, Crime and Policing Act 2014 commenced on 20th October 2014. The Act gives us new tools and powers, which can further help us to tackle issues that matter to our communities.
- 5.6. The Act streamlines fourteen existing powers into seven. The table below details these powers and what they have replaced. The following table summarises these:

Previous Tools	New Powers
PEOPLE Anti-Social Behaviour Order (ASBO) ASBO on conviction Drink Banning order Drink Banning Order on conviction Anti-Social Behaviour Injunction (ASBI) Individual Support Order Intervention Order	Civil Injunction Criminal Behaviour Order (CBO)
PLACES Litter Clearing Notice Street Litter Clearing Notice Graffiti Defacement/Removal Notice Designated Public Place Order (DPPO) Gating Order Dog Control Order Premises Closure Order Crack House Closure Order S161 Closure Order	Community Protection Notice (CPN) Public Spaces Protection Order (PSPO) Closure notice and Closure Order
POLICE POWERS S30 Dispersal Powers S27 Direction to leave	Dispersal Power
NEW POWERS	Community Trigger Community Remedy

5.7. Statutory Guidance is available for professionals responsible for implementing the new powers and provides a working interpretation of the Act and the tools and powers.

5.8. Summary of Powers:

Civil Injunction: Early intervention to prevent individuals from engaging in anti-social behaviour, nipping problems in the bud before they escalate. Civil order for anyone over 10 years of age. Police, Council's RSL's and NHS can apply for these orders via the County Court.

The Injunction can:

- Prohibit the respondent from doing anything prescribed in the order
- Require the respondent to engage in positive activities.

Criminal Behaviour Order (CBO): Applies where a person (the offender) has been convicted of a criminal offence, and only the prosecution can apply for the order (this can include local authorities). This order is to tackle the most persistently anti-social individuals who are also engaged in criminal activity. The Council's ASB team, working with Cheshire Constabulary have already successfully served two of these orders on individuals in Cheshire East. One of which was recognised by a Chief Superintendents Commendation and has been shared as good practice across Cheshire.

The order can:

- Prohibit the respondent from doing anything prescribed in the order
- Require the respondent to engage in positive activities.

Community Protection Notice (CPN): An authorised person can issue a CPN to an individual aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life

The notice can:

- Require the individual/business or organisation to stop doing specific things
- Require the individual/business or organisation to do specific things.

Public Spaces Protection Order (PSPO): Allows the Council to stop individuals or groups committing ASB in public spaces.

The PSPO can:

- Prohibit specified things being done in the area
- Require specified things to be done in the area.

Closure Powers: This power allows the police or council to act quickly to close premises (prohibit access) that are being used, or likely to be used to commit nuisance and disorder.

There are two stages to this:

- Closure Notice – closes the premises for 24/48 hours
- Closure order – this is used if the council wishes to close the premises for longer (up to 3 months which can also be extended for up to 6 months).

Dispersal Powers: This is a police only power which allows the police to designate an area for up to 48 hours without consulting with other agencies which allows them to direct a person to:

- Leave the locality (or part of it)
- Not return for the period specified in the direction (for up to 48 hours max)

Community Trigger: Gives victims and communities the right to request a review of their case and bring agencies together to take a joined up, problem solving approach to find a solution.

The review is carried out when:

- The victim, or someone acting on their behalf, asks for a review *and*
- The threshold set by the council is met

Procedures have been written for the council and thresholds were set in September 2014 via the Safer Cheshire East Board and a Cabinet briefing paper. A copy of this procedure which is due for review in October 2015 can be made available on request.

Community Remedy: This is a police power which gives victims a say in the out-of-court punishment of perpetrators for low-level crime and anti-social behaviour.

Although this is a police power, police are able to liaise with the council's ASB team with reference to any out of court remedies which require an Acceptable Behaviour Contract or Mediation as an outcome.

- 5.4 The procedures detailed in Appendix 1, cover the two powers (PSPO's and CPN). The full set of suggested procedures will be submitted again in August 2015 for approval. The Council would like to use the Community Protection Notices and Public Spaces Orders before this time as there is current demand for these two powers. These powers focus on people and places if thresholds have been met, enable a swift and simple way of enforcement, should anyone choose not to abide by the prohibitions set or requirements made.
- 5.5 Fines for breach of both of these powers can entail a Fixed Penalty Notice of up to £100 which once paid, would discharge the individual of the offence. It is suggested that as an Enforcing Council that the maximum amount of £100 is set without a lower rate for early payment. The fines need to be robust in these circumstances as neither the PSPO or CPN would have been issued if there had not have been a substantial issue in the community or with the individual. This is in fitting with current fines that the council has in relation to dog fouling, littering, fly-tipping etc. which are all set at their maximum rate with an early payment option.
- 5.6 The age currently set for FPN's is 16 years.

6. Conclusion

- 6.1 As an Enforcing Council, we want to move forward with the use of these powers, responding to members of our communities in relation to what they are asking us to do to assist them in dealing with anti-social behaviour, and in turn making sure that the behaviour is dealt with in a proportionate and reasonable manner.
- 6.2 The procedures set out in Appendix 1 give clear guidelines as to how we can best use these two key powers. The document will be reviewed in February 2016 once the use of the powers have been piloted.

7. Wards Affected and Local Ward Members

- 7.1. All.

8. Implications of Recommendation

8.1. Policy Implications

- 8.1.1. Supports the Council's Enforcement Policy.

8.2. Legal Implications

8.2.1. It is essential that due legal process is followed and that any Notice issued accords with the requirements of the Act. Appropriate legal advice would be sought prior to the publication of any Statutory Notice.

8.2.2. Compliance must also be met via: Articles 10 and 11 ECHR and S149 Equality Act re public sector equality duty.

8.3. Financial Implications

8.3.1. The resources for developing PSPOs and CPN's are included in existing budgets. The Council needs to work with partners to understand and agree the shared resources required to enforce orders.

8.4. Equality Implications

8.4.1 None

8.5. Rural Community Implications

8.5.1. None

8.6. Human Resources Implications

8.6.1. Requirement for officers to receive the relevant training in relation to issuing the Fixed Penalty Notices and also refresh training on PSPO's and CPN's as this is a new area of work for both the council and the Police. This work is already underway.

8.7. Public Health Implications

8.7.1. Supports Public Health Outcomes.

8.8. Other Implications (Please Specify)

None

9. Risk Management

9.1. Any potential risks have been considered and mitigated against in this context.

10 Access to Information/Bibliography

10.1 Further information on interventions available to the council as a preventative measure to using the powers can be made available. Information regarding the Community Trigger Process is available.

10.2 BACKGROUND PAPERS

Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory guidance for frontline professionals.

10. Contact Information

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