EXECUTIVE - 19 MARCH 2015

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

Executive Summary

This report provides a summary of the new anti-social behaviour legislation under the Anti-Social Behaviour, Crime and Policing Act 2014. It explains how the previous nineteen notices and powers have been replaced with six, with an overview of each of the new provisions. This will help Woking Borough Council to work effectively with its partner agencies, such as Surrey Police and social landlords, to manage and reduce anti-social behaviour in the Borough. Two new measures, the community trigger and community remedy, have been introduced to focus on the needs of victims when responding to inappropriate behaviour. The report details key information on which powers can now be exercised by the local authority and requests delegated powers to appropriate officers to enable the implementation of these provisions. In respect of Public Space Protection Orders, a request for making such an order would be made to the Executive as and when required.

Reasons for Decision

The Anti-Social Behaviour, Crime and Policing Act 2014 provides new powers to the local authority to help manage and reduce anti-social behaviour, so this report requests suitable delegated powers to appropriate officers to implement the new provisions.

Recommendations

The Executive is requested to:

RECOMMEND to Council That

(i) authority be delegated to the Head of Democratic and Legal Services to undertake court proceedings in respect of the Anti-Social Behaviour, Crime and Policing Act 2014;

(ii) authority be delegated to the Head of Democratic and Legal Services to issue Closure Notices under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014;

(iii) authority be delegated to the Neighbourhood Services Manager to:

a. issue Community Protection Notices;

b. authorise registered social landlords to issue Community Protection Notices;

c. issue Fixed Penalty Notices;

d. authorise any persons to issue Fixed Penalty Notices;

e. take remedial action when a Community Protection Notice has not been complied with under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

The recommendations above will need to be dealt with by way of a recommendation to the Council.
**Background Papers:**

Anti-Social Behaviour, Crime and Policing Act 2014  

Home Office Guidance June 2014  

Sustainability Impact Assessment  
Equalities Impact Assessment

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**Date Published:**

11 March 2015
1.0 Introduction

1.1 On 13 March 2014, the Anti-Social Behaviour, Crime and Policing Act 2014 was given Royal Assent. This act replaces some existing powers and brings in some new ones. Several elements of the Act have only more recently come into effect, with Parts 1 to 6 of the Act that relate to anti-social behaviour commencing on 20 October 2014. There is currently an exception with civil injunctions which are delayed as changes are needed to the civil legal aid system to support this. It has recently been confirmed that implementation of these will commence from 23 March 2015.

1.2 This report provides an overview of the powers and implications and asks for authority for appropriate officers to be able to use the relevant anti-social powers contained in the Act. This does not include all the changes within the Act, only those that are relevant to Local Authorities which therefore have an impact on Woking Borough Council.

1.3 The Act is designed to reduce crime and disorder and the impact of these on our communities. The new, more flexible powers should enable us to work more effectively with our key partners, such as Surrey Police and social landlords, to tackle anti-social behaviour.

2.0 Background

2.1 Many of our existing powers to tackle anti-social behaviour (ASB) came from the Crime and Disorder Act 1998. This Act, and its amendments, included provisions relating to 19 anti-social behaviour powers, both notices and orders. Examples of these include anti-social behaviour orders (ASBOs), dispersal orders and ‘crack house’ closures. The Anti-Social Behaviour, Crime and Policing Act 2014 Act now replaces these measures with six new powers. These are summarised below:
2.2 The Act and relevant guidance are both large documents so this report is only a brief summary of the key areas for ASB. It will cover the following:

- Civil Injunction (part 1)
- Criminal Behaviour Orders (part 2)
- Police Dispersal Powers (part 3)
- Community Protection Notices (part 4 chapter 1)
- Public Spaces Protection Order (part 4 chapter 2)
- Closure Notices (part 4 chapter 3)
- New Absolute Ground for Possession for ASB for secure and assured tenancies (part 5)
- Community Remedy (Police power in consultation with the Local Authority) (part 6)
- ASB Case review (Community Trigger) (part 6)

Civil Injunction

2.3 Part 1 of the Act provides for a civil injunction to prevent nuisance and annoyance. This power can be applied for by councils, social housing landlords, police and others. It is intended to offer a quicker and more effective protection to victims and communities, stopping the perpetrator’s behaviour from escalating. Cases will be heard in a County Court where, if the behaviour meets the nuisance and annoyance test (using civil standard of proof on the balance of probabilities), an injunction will prohibit an individual from certain behaviours for two years. It can also include positive requirements to do something to address their behaviour, such as addressing a substance misuse problem with support services, attending alcohol awareness sessions or irresponsible dog owners attending dog training classes. Hearsay and professional witness statements are accepted for this type of order. A breach of the order can result in a maximum of two years imprisonment as it is considered to be a contempt of court.

2.4 The current ASBOs will remain in force for 5 years from commencement of the new orders and then become invalid. In Woking we currently have only two ASBOs. One is due to expire on 28 March 2015 and the other, a 10 year one, is due to expire on 3 September 2017.

Criminal Behaviour Orders

2.5 Part 2 of the Act makes provision for an order on conviction to prevent behaviour which causes harassment, alarm or distress. These orders are issued by any criminal court against a person who has been convicted of an offence, and will tackle the most persistently anti-social individuals who are also engaged in criminal activity. Orders will include prohibitions to stop the anti-social behaviour and positive requirements to get offenders to address root causes of their offending.

2.6 The police or council can request that the Court considers adding a criminal behaviour order where an individual is being charged with a criminal offence. In practice, we expect that the police or Crown Prosecution Service will request an order when dealing with a conviction, so there are limited resource implications for us.

Dispersal Powers

2.7 Part 3 of the Act contains a power for the police to disperse people causing harassment, alarm or distress. This will enable 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 up to 48 hours. This is a police only power and is not available to councils.

2.8 Unlike Section 30 of the Anti-Social Behaviour Act 2003, which has now been repealed, the power does not require the pre-designation of a ‘dispersal zone’ in which the power can be used by a police officer or PCSO (if power designated by their Chief Constable). While the new power mirrors aspects of Section 27 of the Violent Crime Reduction Act, it does not restrict the use of powers to alcohol-related harm.

2.9 Authority of an Inspector (or above) is required before a dispersal notice can be issued. This safeguard is deemed necessary given the new dispersal power is a much broader, more powerful tool that is not restricted to alcohol related anti-social behaviour.

**Community Protection Notices (CPNs)**

2.10 Community protection notices are intended to deal with particular ongoing problems or nuisances which negatively affect the community’s quality of life by targeting those responsible, e.g. graffiti, rubbish and noise. Councils are identified as the lead authority for issuing these kinds of notices, which compliment, but do not replace the powers and procedures used by Environmental Health for offences such as smoke nuisance from bonfires, noise and fly tipping under the statutory nuisance powers of the Environmental Protection Act 1990.

2.11 A community protection notice can be issued where responsible authorities have reasonable grounds to be satisfied that the conduct is:

- having a detrimental effect on the quality of life of those in the locality
- persistent or continuing in nature
- unreasonable

2.12 The process involves three stages - an initial warning, a formal notice and, finally, a sanction for non-compliance. Issuing a community protection notice does not discharge the Council from its duty to issue an abatement notice where the behaviour constitutes nuisance under the Environmental Protection Act 1990.

2.13 Where appropriate, councils can designate registered social landlords (RSLs) in their areas to use these powers. However the police and RSL need to consult with relevant agencies before using these powers and, in particular, Environmental Health, to ensure the behaviour is not a statutory nuisance.

2.14 Additionally, when a fixed penalty notice is issued by the police or RSL, the Council retains responsibility for prosecuting for the non-payment of the notice and any further sanctions.

2.15 Failure to comply with a community protection notice is an offence. There are five possible sanctions for a breach:

- a fixed penalty notice can be issued by the council or police of no more than £100 and can specify two amounts (e.g. a lower amount for early settlement);
- remedial action, whereby works can be carried out by the council or RSL and recharged to the offender;
2.16 If necessary, the lead agency can apply to the court to stop the behaviour by issuing one or more of the following:

- remedial orders, whereby a court order is made for remedial work to be undertaken;
- forfeiture orders, requiring the offender to forfeit any equipment that contributed to the anti-social behaviour (e.g. sound equipment, spray paints); and
- seizure, a court issued warrant to seize items that have been used to commit offences.

Closure Notice and Orders

2.17 This power allows for the closure of any premises that are causing nuisance or disorder to communities (including licensed premises). The closure notice can be issued for a 24 hour period by councils or police (a council chief executive or Superintendent can extend this initial period to 48 hours where necessary). An extended period of closure can be made upon application for an order to the Magistrates’ Court within 48 hours of the original notice being served.

Public Space Protection Orders

2.18 Public space protection orders (PSPO) are intended to deal with particular nuisance or problems in an area that is detrimental to the local community’s quality of life by imposing conditions on the use of the area. They are designed to ensure the law-abiding majority can enjoy public spaces. This power is applied for by councils. Should the need arise, then authority will be sort from the Executive to put a PSPO in place.

2.19 Councils can make an order on any public space within their area. An order can cover a multitude of prohibitions, replacing other such orders on public spaces such as dog control orders, gating orders and Designated Public Place Orders (DPPOs). There must be consultation with local community groups, police, parish and county councils. Types of circumstances for these orders include ensuring dogs are kept on leads and banning the consumption of alcohol. The Council can set restrictions and requirements, which may be blanket or targeted at certain behaviours with particular groups at specified times.

2.20 This order replaces Designated Public Place Orders, which deal with anti-social behaviour linked to alcohol consumption in a public place. There are currently 4 DPPOs in the borough, covering Woking town centre, Goldsworth Park, West Byfleet Recreation Ground and Sheerwater Recreation Ground. Whilst the new powers came into force from October 2014, unless changes are required to the current DPPOs, they remain for three years. During this period they will need to be reviewed to assess whether we will be applying for a PSPO to replace them, if there is the evidence to support this.

2.21 Any breach of the order makes the offender liable on summary conviction to a maximum fine of £1,000, but it is most likely that a fixed penalty notice would be applied. Council officers and the police can issue fixed penalty notices, but officers would need to witness the breach and have given the offender a previous warning to correct the behaviour.

New Absolute Grounds for Possession

2.22 The Act introduces a new absolute ground for possession of secure and assured tenancies where serious anti-social behaviour or criminality has already been proven by another court. This includes where a tenant, a member of the tenant’s household or a person visiting the property has been convicted of a serious offence (specified in Schedule
2A to the Housing Act 1985), found by the court to have breached a civil injunction, convicted for breaching a criminal behaviour order or noise abatement notice or the property has been closed for more than 48 hours under a closure order for antisocial behaviour.

2.23 Unlike the existing discretionary grounds for possession, the landlord will not be required to prove to the court that it is reasonable to grant possession. This means the court will be more likely to determine cases in a single, short hearing.

Community Trigger

2.24 The community trigger gives victims and communities the right to require agencies to deal with persistent anti-social behaviour that they feel has previously been ignored. The process starts with a review of their case where the defined threshold is met. A victim or a third party acting on behalf of the victim can activate this process.

2.25 The basic procedure for a trigger involves:

- A victim, or third party, making an application to use the trigger.
- The relevant bodies deciding whether the threshold has been met.
- If yes, then relevant bodies share information about the case, consider if further information is needed and review what previous actions have been taken. Where further action can be taken, a plan is agreed and activity monitored with regular updates being provided to the victim.

2.26 A Surrey Community Trigger Framework has been developed by the Surrey Anti-Social Behaviour Strategy Group following consultation with the police, councils and community safety partnerships. This group is led by Surrey Police and has representatives from across Surrey who work in the anti-social behaviour field. The framework incorporates the statutory thresholds for the community trigger:

- a victim has made three reports to the council, police or registered social landlord about the same issue in the last six months and no action has been taken; or
- five individuals have separately reported the same issue in the last six months and no action has been taken.

2.27 A single point of contact in each district or borough must be identified for all submissions. This is agreed by the relevant community safety partnership and in Woking this is the Council’s Anti-Social Behaviour Officer.

2.28 The ASB Officer (or representative) will initially assess the case in consultation with partners as required. If the community trigger criteria are met, a referral will be made to the Safer Woking Partnership’s multi-agency Community Incident Action Group (CIAG) or Joint Action Group (JAG) to ensure a multi-agency approach to the issue that has been raised. The CIAG or JAG will review the case, consider how the problem could be resolved and respond to the victim with a comprehensive action plan.

2.29 The community trigger provisions came into effect on 20 October 2014 and victims have been able to submit applications online or by hard copy since then. The details of the process and the relevant forms are all on the Woking Borough Council web site http://www.woking.gov.uk/community/safety/Help_if_experiencing_ASB/communitytrigger.
Further work with partners will be done to publicise the community trigger process. As at 5 March 2015 no community triggers had been received by the council.

Community Remedy

2.30 This new provision gives victims of low-level crime and anti-social behaviour a say in the punishment of offenders as an alternative to the need for court action. This means that victims will get justice quickly and the offender has to face immediate and meaningful consequences for their actions.

2.31 This provision is a duty for the Police and Crime Commissioner (PCC) and is enacted by the local investigating police officer. Surrey’s Police and Crime Commissioner has undertaken public consultation on methods of dealing with offending and this will inform local implementation of the community remedy – see Surrey OPCC website: http://www.surrey-pcc.gov.uk/2014/10/community-remedy-draft-document-published/.

Enforcement

2.32 The new powers come with enforceable penalties and, in some cases, Woking Borough Council will be the lead authority. We are also the prosecuting authority for any breaches of public space protection orders and community protection notices. Both orders have sanctions for fixed penalty notices (up to £100) for breaches where a warning letter has previously been issued. The borough council will receive all income from any enforcement activity, including fixed penalty notices.

Next Steps

2.33 Officers from the council have been working with relevant internal services and partner agencies to develop and agree processes and procedures for the implementation of these new powers. These arrangements will be put into place in the event that the relevant authority is received from the Council. We will also work with partners to publicise these new powers.

2.34 The new powers impact on different areas of the council’s work. Some orders replace existing ones, such as the Designated Public Place Order (DPPO), and others work alongside existing powers, such as abatement notices. Where this is the case, good communication will be necessary to ensure that duplication is avoided and that the right power is utilised to deal with that particular problem.

2.35 Surrey County Council’s Community Safety team has prepared a training course for community safety partnerships on the new powers. Some of our front line officers have already attended this training. Further training is also being arranged locally.

3.0 Implications

Financial

3.1 It is anticipated that we can implement most of the provisions of the Act within existing resources. However there may be some future financial implications so this will be kept under review. The potential costs may include:

- Staff costs for enforcement
- Additional legal costs
• Staff training costs (although currently we can undertake this within the existing training budget)

3.2 A further report will be brought to the Executive if these resource implications require significant additional finances.

Human Resource/Training and Development

3.3 There will be implications for front line staff on the implementation and enforcement of the new powers both in terms of staff time and training. There may also be an impact on Legal Services if more anti-social behaviour action occurs. At this stage the possible impact cannot be assessed but will be kept under review.

Community Safety

3.4 The Anti-Social Behaviour, Crime and Policing Act 2014 provides tools and powers that will support our work around community safety and our Community Strategy priority of providing a clean, healthy and safe environment. It will help us fulfil our statutory duty to reduce crime and disorder.

3.5 The use of the new ASB legislation will be monitored and reported in the quarterly Safer Woking Partnership reports which are routinely sent to Members, and will also be reported on a six monthly basis to the Community Safety Sub-Committee of the Woking Joint Committee.

Risk Management

3.6 None.

Sustainability

3.7 None.

Equalities

3.8 None.

4.0 Consultations

4.1 The Portfolio Holder for Community Safety, Councillor Beryl Hunwicks, has been consulted on this. In addition, the Community Safety Sub-Committee of the Woking Joint Committee received a presentation on the new legislation at its meeting in November 2014.

REPORT ENDS

EXE15-398
APPENDICES

None
Equality Impact Assessment

The purpose of this assessment is to improve the work of the Council by making sure that it does not discriminate against any individual or group and that, where possible, it promotes equality. The Council has a legal duty to comply with equalities legislation and this template enables you to consider the impact (positive or negative) a strategy, policy, project or service may have upon the protected groups.

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<th>Gender</th>
<th>Positive impact?</th>
<th>Negative impact?</th>
<th>No specific impact</th>
<th>What will the impact be? If the impact is negative how can it be mitigated? (action)</th>
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<td>discrimination</td>
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<td>Gender Reassign</td>
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<td>Other ethnic</td>
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</table>
The purpose of the Equality Impact Assessment is to improve the work of the Council by making sure it does not discriminate against any individual or group and that, where possible, it promotes equality. The assessment is quick and straightforward to undertake but it is an important step to make sure that individuals and teams think carefully about the likely impact of their work on people in Woking and take action to improve strategies, policies, services and projects, where appropriate. Further details and guidance on completing the form are available.
### Sustainability Impact Assessment

Officers preparing a committee report are required to complete a Sustainability Impact Assessment. Sustainability is one of the Council’s ‘cross-cutting themes’ and the Council has made a corporate commitment to address the social, economic and environmental effects of activities across Business Units. The purpose of this Impact Assessment is to record any positive or negative impacts this decision, project or programme is likely to have on each of the Council’s Sustainability Themes. For assistance with completing the Impact Assessment, please refer to the instructions below. Further details and guidance on completing the form are available.

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<th>Theme (Potential impacts of the project)</th>
<th>Positive Impact</th>
<th>Negative Impact</th>
<th>No specific impact</th>
<th>What will the impact be? If the impact is negative, how can it be mitigated? (action)</th>
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<td>Use of energy, water, minerals and materials</td>
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<td>X</td>
<td>Discourages anti-social behaviours that could be detrimental to the environment and allows for enforcement action where necessary.</td>
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<td>Waste generation / sustainable waste management</td>
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<td>Pollution to air, land and water</td>
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<td>X</td>
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<td>Factors that contribute to Climate Change</td>
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<td>Protection of and access to the natural environment</td>
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<td>Discourages anti-social behaviours that could be detrimental to the environment and allows for enforcement action where necessary.</td>
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<td>Travel choices that do not rely on the car</td>
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<td>A strong, diverse and sustainable local economy</td>
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<td>Allows citizens who are victims of anti-social behaviour to initiate the ‘Community Trigger’ or contribute to a ‘Community Remedy’ which empowers them to improve their own local communities.</td>
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<tr>
<td>Meet local needs locally</td>
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<td>Opportunities for education and information</td>
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<td>Provision of appropriate and sustainable housing</td>
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<td>Personal safety and reduced fear of crime</td>
<td>X</td>
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<td>As above.</td>
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<td><strong>Equality in health and good health</strong></td>
<td>X</td>
<td>Anti-social behaviour and nuisance can be detrimental to the health of those affected by it. These new powers will improve equality of health for all, no matter where in the Borough or in which community the victim lives.</td>
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<td><strong>Access to cultural and leisure facilities</strong></td>
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<tr>
<td><strong>Social inclusion / engage and consult communities</strong></td>
<td>X</td>
<td>Allows citizens who are victims of anti-social behaviour to initiate the ‘Community Trigger’ or contribute to a ‘Community Remedy’ which empowers them to improve their own local communities.</td>
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<tr>
<td><strong>Equal opportunities for the whole community</strong></td>
<td>X</td>
<td>Anti-social behaviour and nuisance can be detrimental to the health of those affected by it. These new powers will improve equality of health for all, no matter where in the Borough or in which community the victim lives.</td>
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<tr>
<td><strong>Contribute to Woking’s pride of place</strong></td>
<td>X</td>
<td>This new legislation will provide powers to deal with anti-social behaviour and nuisance which will contribute to Woking’s pride of place.</td>
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