

Report of	Meeting	Date
Director of Public Protection Streetscene and Community (Introduced by the Member for Public Protection)	Executive Cabinet	23 October 2014

ANTI SOCIAL BEHAVIOUR – COMMUNITY TRIGGER AND ADDITIONAL TOOLS AND POWERS

PURPOSE OF REPORT

1. To advise Members of the introduction of new tools and powers to deal with anti-social behaviour (ASB) under the Anti-Social Behaviour Crime and Policing Act 2014 (the Act).
2. To seek approval for the adoption of the proposed 'community triggers' when a review of an anti-social behaviour case is being sought by victims of ASB.
3. To seek the necessary delegations and authorisations for officers to use the new powers.

RECOMMENDATION(S)

4. It is recommended that Members adopt the community trigger thresholds as detailed in this report at paragraph 12.
5. It is recommended that Members approve a delegation to the Director of Public Protection Streetscene and Communities in consultation with the appropriate Executive Member to adjust the community trigger thresholds following any future review of the trigger levels by the Lancashire Community Safety Partnership.
6. Members recommend to full Council that appropriate delegations be made to the Director of Public Protection Streetscene and Community to exercise the new powers available to district councils and that the Head of Governance be granted delegated power to delete from the constitution references to redundant powers which have been superseded by the Anti-Social behaviour, Crime and Policing Act 2014.'
7. It is recommended that Members provide the Director of Public Protection, Streetscene and Community in conjunction with the appropriate Executive Member the delegated authority to; issue all notices, to implement Public Spaces Protection Orders, to designate powers to social landlords, to designate powers to Council officers for the purpose of enforcement and to take all necessary steps under the Anti-Social Behaviour, Crime and Policing Act 2014 with regard to functions which are the responsibility of the Council.

EXECUTIVE SUMMARY OF REPORT

8. The Anti-Social Behaviour Crime and Policing Act 2014 (the Act) introduces new provisions for dealing with anti-social behaviour and provides a mechanism known as a community trigger for victims of anti-social behaviour (individual and communities) to seek a case review.
9. The purpose of the community trigger provision is to provide recourse to victims of anti-social behaviour who believe the relevant agencies have failed to deal with their case properly.

10. Community triggers specifically use a victim and community focussed risk assessment approach which enables communities and individual victims of anti-social behaviour to seek a review of their case and hold agencies and authorities to account for the actions they have taken.
11. Trigger levels have been agreed across the Lancashire County footprint in order to ensure a consistent approach and ease the administrative burden on agencies and authorities that operate on a wider area than district councils.
12. The proposed trigger levels accord with current Home Office guidance and are:
 - 3 complaints in the previous 6 months from one individual about the same anti-social problem where no action has been taken, or
 - 5 individuals complaining about the same or similar anti-social incidents in the last 6 months where no action has been taken, or
 - 1 incident motivated by hate in the last 6 months from one individual where no action has been taken.
13. The Act sets out what is deemed a qualifying complaint of anti-social behaviour for the purposes of using the community trigger, and anti-social behaviour is defined as behaviour causing harassment, alarm or distress to a member or members of the public. Anti-social behaviour is not behaviour that merely causes nuisance or annoyance.
14. Once a community trigger has been reached a process will take place that determines the veracity of the trigger request and within specified service standards times the victim will be notified if the request is moving to a full case review.
15. Where the trigger is deemed not to have been reached the applicant/victim will be advised accordingly, notwithstanding that an investigation into the specifics of the case may also take place.
16. The Act also provides a number of new tools and powers as follows:
 - Civil Injunctions
 - Criminal Behaviour Orders – administered by the Crown Prosecution Service
 - Community Protection Notice
 - Public Space Protection Order
 - Premises Closure Powers
17. It should be noted that Home Office guidance requires other avenues of resolution to the ASB should have been explored prior to using the above new powers. These early and informal interventions can be summarised as follows:
 - Warnings – verbal and written
 - Community Resolution – administered by police
 - Mediation – where both parties consent
 - Acceptable Behaviour Contracts (ABS's) –administered by police
 - Parenting Contracts
 - Support and Counselling – using a multi-agency approach with a Lead Professional
18. Processes will be established to ensure these new powers are available to officers and the necessary authorisations provided.

Confidential report Please bold as appropriate	Yes	No
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Key Decision? Please bold as appropriate	Yes	No
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Reason Please bold as appropriate	1, a change in service provision that impacts upon the service revenue budget by £100,000 or more	2, a contract worth £100,000 or more
	3, a new or unprogrammed capital scheme of £100,000 or more	4, Significant impact in environmental, social or physical terms in two or more wards

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

19. To ensure the Council has the appropriate delegations and authorisations in place to utilise the tools and powers available to them to deal with anti-social behaviour.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

20. None

CORPORATE PRIORITIES

21. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	√	A strong local economy	
Clean, safe and healthy communities	√	An ambitious council that does more to meet the needs of residents and the local area	√

BACKGROUND

22. The Anti-Social Behaviour Crime and Police Act 2014 (the Act) introduces a number of new tools and powers to tackle anti-social behaviour. The Government have published Home Office guidance on these new tools and powers and are appended to this report at Appendix A.

COMMUNITY TRIGGER

23. The purpose of the community trigger is to enable victims of ASB to seek a review of their ASB case and to set the thresholds that will determine at what point that case review can be triggered.
24. Prior to the introduction of community triggers within the Anti-Social Behaviour Crime and Policing Act 2014, several pilot schemes were established across the country to assess the likely impact of community triggers.
25. Manchester City Council was one such pilot area and their experience in trialling the community trigger resulted in them setting a trigger threshold of :
- 3 complaints in the previous 6 months from one individual about the same anti-social problem where no action has been taken, or
 - 5 individuals complaining about the same or similar anti-social incidents in the last 6 months where no action has been taken, or

- 1 incident motivated by hate in the last 6 months from one individual where no action has been taken.
26. Guidance thresholds have been included in Home Office guidance and the wider Lancashire community safety partnership has proposed the above thresholds be used across the Lancashire footprint.
 27. Using a common set of thresholds across Lancashire will ensure that partners and agencies with a footprint greater than a district council area will not need to operate under a multiplicity of community threshold triggers and procedures. This will promote a common approach across Lancashire to the benefit of victims of antisocial behaviour who are seeking a review of their case.

ASSESSING ASB AND UNDERTAKING CASE REVIEWS

28. Home Office guidance clearly states what is deemed to be included within the definition of anti-social behaviour as follows:
“For the purpose of the Community Trigger, anti-social behaviour is defined as behaviour causing harassment, alarm or distress to a member, or members, of the public. However, when deciding whether the threshold is met, agencies should consider the cumulative effect of the incidents and consider the harm or potential harm caused to the victim, rather than rigidly deciding whether each incident reached the level of harassment, alarm or distress.

Even though housing-related anti-social behaviour has a lower test of nuisance or annoyance for an injunction under Part 1 of the Act, because of the victim’s inability to separate themselves from the anti-social behaviour the harm experienced is highly likely, depending upon the circumstances, to result in harassment, alarm or distress for the purposes of the Community Trigger.”
29. This guidance implies that there are two levels of ASB dependant on its nature, impact and proposed means of remedy.
30. Therefore it is reasonable to expect that each case of antisocial behaviour will have to be judged individually taking into account the harm or potential harm to the victim.
31. For the purposes of dealing with ASB complaints it is proposed that the existing Anti-Social Behaviour Risk Assessment Conference (ASBRAC) methodology will continue to be used by officers to determine what action if any is required to address individual complaints of ASB and also used to manage the review of cases triggered by the community trigger.

OTHER TOOLS AND POWERS

32. The Act contains a number of new tools and powers available to local authorities and agencies in order to deal with anti-social behaviour. Below is a brief outline of these new tools and powers.
33. Civil Injunctions
 Civil injunctions can be sought by District Councils, Registered Social Landlords (where the ASB is housing related only), Police, Environment Agency and National Health Service providers. There are two tests to be applied before their use:
 - a. Non-housing related test: the ASB conduct is likely to cause harassment, alarm or distress to any person (not affecting housing management functions).
 - b. Housing related test: the ASB conduct is capable of causing nuisance or annoyance to a person in relation to a person’s occupation of residential premises or conduct capable of causing housing related nuisance or annoyance to any person.

Members should note that there is currently a delay to the introduction of the civil injunction provisions so as to allow unavoidable and necessary changes to be made to the civil legal

aid system to ensure that applications for advocacy assistance can be assessed for those involved in civil injunction hearings. This will require amendments to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which should be completed by the end of January 2015 at the latest. Once the Council is advised that these necessary changes have been made then the recommendation in relation to authorisations and delegations (paragraphs 6 and 7 above) will come into effect with regard to this new power.

34. Criminal Behaviour Orders (CBO)

CBO's are available to be used on conviction of a criminal offence, to manage an offender's behaviour.

The Crown Prosecution Service can seek the making of a CBO as part of antisocial behaviour criminal proceedings.

35. Community Protection Notice (CPN)

The CPN is used to prevent a person over 16 years old, a business or an organisation committing ASB. CPN's can be issued by local authorities, the police or housing providers where they have been co-opted to do so. Irrespective of who has served the CPN it appears that the Council retains the responsibility for undertaking any remedial action required under a Remedial Order issued by the Courts as a result of a Community Protection Notice.

36. Public Space Protection Orders (PSPO)

PSPO can be used to stop ASB in a public space. The local authority can only issue a PSPO following consultation with police, Police and Crime Commissioner, and other agencies. A PSPO is time limited to a maximum period of 3 years and can impose restrictions and requirements relating to the use of the public space such as consumption of alcohol restrictions, dog walking and others. The use of this power has to pass a test of being reasonable. When a PSPO is made, extended, varied or discharged it must be published in accordance with Regulations made by the Secretary of State. The 'Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014' have now been published and set out the legal process in relation to PSPO's.

37. Closure Powers

These new provisions enable police and local authorities to quickly close premises that are a source of ASB for periods up to 48 hours. A Closure Notice is served in the first instance and is then followed by a Closure Order which must be applied for in the courts.

38. Dispersal Power

The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community.

39. Absolute Ground For Possession

The legislation introduces a new absolute ground for possession which can be used by landlords to expedite eviction of tenants who are a source of anti-social behaviour, so bringing swifter relief to victims.

40. A full account of the new provisions "Anti-Social Behaviour, Crime and Policing Act 2014: Reform of Anti-Social Behaviour Powers" can be accessed via the Home Office website: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf

IMPLICATIONS OF REPORT

41. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	√	Customer Services	
Human Resources		Equality and Diversity	
Legal	√	Integrated Impact Assessment required?	√
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

42. Dependent upon the scale of activity there may be some increase in resource required, however, initial indications from the pilot is that the triggers do not result in a significant increase in activity. Therefore, I anticipate costs can be contained within the current cost base.

COMMENTS OF THE MONITORING OFFICER

43. The recommendations are compliant with the requirements of the legislation.

JAMIE CARSON
DIRECTOR OF PUBLIC PROTECTION STREETSCENE AND COMMUNITY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	15 September 2014	ASB tools and powers