

15 October 2014

Business & Town Centres Committee

Anti-Social Behaviour (ASB), Crime & Policing Act 2014

Report of: *Ashley Culverwell, Head of Borough Health Safety and Localism*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 This report identifies the challenges and opportunities faced by the Council under the new Anti-Social Behaviour (ASB), Crime and Policing Act. The Act received Royal Assent on 13 March 2014 and will commence on 20th October 2014. The Act is designed to:

- Put victims at the heart of the response to anti-social behaviour
- Give professionals the flexibility they need to deal with any given situation

1.2 The overarching aim of the Act is to provide more effective powers to tackle ASB; protect victims and communities and treat the underlying behaviour of perpetrators. The new powers will impact both in terms of expectations on local Authorities, and the ability of Local Authorities to respond.

2. It is RECOMMENDED that Members:-

- 2.1 **Note this report about the new Anti-Social Behaviour (ASB), Crime and Policing Act and highlight the potential implications for the Council.**
- 2.2 **Delegate authority to the Heads of Health, Safety & Localism, Street Scene, Housing and Planning and officers nominated by them to enforce the anti-social behaviour and irresponsible dog ownership control powers given to this Council within the Act.**
- 2.3 **Agree to this Council acting as the single point of contact for all ASB Case Reviews.**
- 2.4 **Support Member training seminars to get a good understanding of how these new powers could be used in Brentwood and to consider how other Essex City, Borough and District Councils intend to use them.**

3. Introduction and Background

- 3.1 The ASB, Crime and Policing Act received Royal Assent in March 2014 and the ASB provisions will commence with effect from 20th October.
- 3.2 It is intended that the new powers provided by the Act will reduce 'red tape' and thereby reduce opportunity to use lack of powers or complexity of legislation as excuses for inaction. Furthermore, the Act is designed to enable authorities to act at a much earlier stage; some of the tools are very much designed to facilitate early intervention, and in some instances even with the potential to take action before a problem occurs.
- 3.3 The Act has 14 parts:
- Parts 1-6 deal with ASB
 - Parts 7-10 deal with Dangerous Dogs¹, Firearms, Protection from Sexual Offences and Prohibitions on Forced Marriages
 - The remainder of the Act addresses policing, extradition, criminal justice and court fees
- 3.4 The Act replaces 19 existing powers dealing with ASB with 6 broader powers and introduces a new absolute ground for possession of secure and assured tenancies associated with ASB or criminality (a simple chart showing these changes is attached at Appendix A). Each of the new measures is considered within this report but for more information please see the attached summary at Appendix B.
- 3.5 ***Injunction to Prevent Nuisance and Annoyance (IPNA)***. The IPNA is a civil power which can be applied for by a range of agencies including the Council, police and housing providers to deal with anti-social individuals. The IPNA can prohibit the offender from doing proscribed 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. Breach of an IPNA is not a criminal offence.

¹Part 7 of the Act amends the Dangerous Dogs Act 1991 and provides Local Authorities, Police and Social Landlords the opportunity to utilise powers contained in parts 1-6 of the Act to tackle irresponsible dog ownership. However, the police will continue to deal with issues of dangerous and prohibited dogs under the Dangerous Dogs Act 1991. For more information see Tackling Irresponsible Dog Ownership Draft practitioners' manual Annex A - D <https://www.gov.uk/government/publications/tackling-irresponsible-dog-ownership-draft-practitioners-manual>

- 3.6 ***Criminal Behaviour Order (CBO)***. The CBO is available to the Crown Prosecution Service (CPS) on conviction for any criminal offence in any criminal court. The CPS can seek a CBO either on their own initiative or following a request by the Council or police. 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.
- 3.7 ***Directions Power***. The power can be used by the police to disperse anti social individuals and provide immediate short-term respite to the local community. Police officers can also confiscate any item that they believe has been used, or is likely to be used, in anti-social behaviour. Failure to comply with the direction is an offence, which can result in imprisonment or a fine.
- 3.8 ***Community Protection Notice (CPN)***. 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 a business. The Home Office notes 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).
- 3.9 ***Public Spaces Protection Order (PSPO)***. 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 the 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. 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. The Act provides the ability for authorised Council 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 Council but cannot exceed £100.
- 3.10 ***Closure Power***. The closure power can be used by Councils and the police to close premises that are causing nuisance or 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.

- 3.11 **Recovery of Possession of Dwelling-Houses.** The purpose of the new absolute ground for possession is to speed up the possession process for Councils, housing providers and private landlords 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 B).
- 3.12 The Act also introduces the power for the Secretary of State to make regulations under which the keeper of a vehicle may be required to pay a fixed penalty where litter has been thrown, dropped or otherwise deposited from the vehicle. Currently, a fixed penalty notice can only be issued when litter is thrown from a car if the person responsible for throwing the litter can be identified. This new provision would bring the legislation for littering offences in line with that for fly-tipping with the keeper of a vehicle being deemed responsible for any offences committed by those within the vehicle.
- 3.13 **Community Remedy.** The Act requires each local policing body to prepare a community remedy document for its area with a list of actions to be carried out by a person who has a) engaged in anti-social behaviour or has committed an offence and b) is to be dealt with for that behaviour or offence without court proceedings. An action is considered appropriate to be carried out by a person only if it has one or more of the following objects:
- assisting in the person's rehabilitation;
 - ensuring that the person makes reparation for the behaviour or offence in question;
 - punishing the person.
- 3.14 **Anti-Social Behaviour Case Review (formerly known as the Community Trigger).** This new power will give victims of ASB the right to request a review of their case. If the threshold is met agencies including the Council, police, clinical commissioning group and providers of social housing will have a duty to undertake a case review. There is a requirement for the relevant bodies to produce "review

procedures” for carrying out any ASB case reviews and ensure that the review procedures are published.

Relevant bodies must also report the number of applications received and those that met the threshold. The need for the development of a consistent approach to the ASB Case Review across Essex was identified early. Safer Essex, whose membership consists of local Community Safety Partnership Chairs, the Police & Crime Commissioner, Essex Police, Essex Probation, Clinical Commissioning Groups, Victim Support and other agencies, agreed that this would ensure that victims of ASB across Essex would receive a more coherent and effective response regardless of where they live in the County. As a result an Essex threshold has been agreed and guidance issued. Brentwood has further developed the guidance in partnership with Epping Forest District Council to account for local needs. A copy of the guidance is attached at Appendix C.

4. Issue, Options and Analysis of Options

- 4.1 This new Act is a ‘game changer’ for ASB issues, and will raise expectations on Local Authorities, both from victims of ASB and from central government. The Council has acted swiftly in addressing the issues and officers have already worked on improving our systems, reviewing our processes and identifying changes required to ensure we are best placed to respond to the changes with minimal increase in resources.
- 4.2 Processes are being developed to position the Council for when the new obligations and powers are introduced. Managing ASB cases effectively is a key feature of a high quality, customer focused ASB service. We have strong partnerships locally which have achieved excellent results in terms of reducing ASB in the Borough. However, there has never been a greater need to ensure that we respond to ASB complaints in a consistent manner providing the right response in each case.
- 4.3 There are various systems throughout the Council to record incidents of ASB. A budget has been allocated to purchase a dedicated ASB case management recording system. This will provide a consistent uniform approach to recording the detail required at the first point of contact across all Council services thereby improving internal communication and monitoring of incidents which may be received in respect of the same individuals by different services. Intervention measures can therefore quickly be identified to safeguard residents more effectively. A program of staff training is underway.
- 4.4 Each report of ASB will also be risk assessed. This allows officers to assess the extent to which a resident is at risk of experiencing harm at the

earliest possible point.

It can then be used to tailor the response and support offered in order to reduce the risk of harm.

- 4.5 The website is being updated to make it easier for residents not only to find information about ASB but to also report incidents and request an ASB Case Review. An online ASB Case Review form has been developed by the Community Safety Manager with paper copies being available on request.
- 4.6 Training on the ASB Crime & Policing Act is being arranged for Members to ensure they are fully briefed and confident of the Council's obligations under the new powers. This will include training on the ASB Case Review as Members may be asked to request a review on behalf of the victim. Training dates to be confirmed shortly.
- 4.7 As mentioned earlier in this report Essex Councils responded quickly to the need for a consistent approach to the ASB Case Review. Albeit that there are a number of responsible authorities who have an obligation to carry out the review it is widely accepted across the Country that Local Authorities are the most appropriate agencies to co-ordinate the review process. The Government piloted the ASB Case Review across 5 pilot areas including Richmond, Manchester and Brighton. In each pilot area the local authority or housing provider acted as the Single Point of Contact (SPOC) for all reviews. Essex has adopted this approach and each Local Authority has identified a SPOC to co-ordinate all ASB Case Reviews. The recommendation supports this in view of the Council's active involvement in the Community Safety Partnership. The Council's Community Safety Manager will be the SPOC for all requests. However, the final sign off will be the responsibility of the Local Area Group which will act as the review panel for all ASB Case Reviews and will be chaired by Essex Police. Having considered the requests received by the pilot areas it is thought that the numbers of ASB Case Reviews will be minimal. For the 5 pilot areas a total of 27 requests were received over a twelve month period, 15 met the threshold, 11 did not meet the threshold, and of those who meet the threshold only 6 required further action.
- 4.8 The Act also opens up a number of other issues and significant change including:
 - a) The ability, in certain circumstances, for action to be taken to prevent ASB before it occurs, where there are reasonable grounds to believe it may happen.

- b) The possibility for enforcement to include positive measures, not just punishment (so for example an offender may be asked to attend rehabilitation courses to seek to address the behaviour that caused the ASB).
- c) There is now a two tier test in the legislation for what the court will consider as constituting ASB. A lower threshold will now apply where the ASB is affecting individuals in their homes.
- d) There are significantly more cases where the Council will need to work closely with the Police and Crown Prosecution Service in order to access and apply some of the powers within the Act.
- e) Some dispersal powers no longer require the Police to consult with the council.
- f) There are greater opportunities for the use of Fixed Penalty Notices to be issued by suitably trained and authorised staff.
- g) The Police will no longer be entirely responsible for monitoring and breaching court imposed orders, the Council will need to fulfill this role where powers of arrest do not exist.
- h) Council officers may be authorised to enforce a Public Space Protection Order – which will ultimately replace the Designated Public Place Order, dog control orders and others.

4.9 The net effect of these changes means that the council should have more opportunity to address a wider range of issues; however the introduction of these new powers may result in an increased expectation from victims of ASB.

4.10 The widening of the scope in terms of domestic abuse, breaches of orders, monitoring and positive requirements carries the potential for significant increases in demand and/or expectations but resource implications cannot be quantified at this stage. The effect of any unforeseen demand will be closely monitored and if this cannot be met within existing resources Members will be informed at the earliest possible convenience.

4.11 Communication and publicity are also key factors. A communication strategy with Essex partners and the council's communication team is being developed.

5. Reasons for Recommendation

5.1 To empower officers to enforce the new controls and to ensure that residents receive an efficient and effective service to reduce the risk to our communities.

- 5.2 To protect residents by applying controls and ensuring joined up multi-agency working and responsibility/ownership to reduce the risk of vulnerable victims not being protected by the authorities they depend on.

6. Consultation

- 6.1 Consultation has taken place with relevant partners across Essex and the need for the development of a consistent approach to the Act, particularly the ASB Case Review across Essex was identified early. As a result a County-wide model has been developed for all ASB Case Reviews.

7. References to Corporate Plan

- 7.1 This report is aligned to the Council's corporate priorities in relation to a Safe Borough, Street Scene & Environment, Housing, Health & Wellbeing, and a Modern Council in terms of the following:

- Reducing anti-social behaviour
- Reduce offending by young people
- Increasing community confidence
- Developing effective partnership arrangements
- Ensuring council tenants are socially responsible and good neighbours
- Improving service delivery

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email: 01277 312712, jo-anne.ireland@brentwood.gov.uk

- 8.1 The immediate financial implications arising from the recommendations in this report are for the purchase of the ASB module from IDOX to improve our ASB case management and to train staff on its use. The cost of this is £8350 which includes set up, configuration and training. There is an annual maintenance cost of £600. The costs for both will be met from existing budgets. Officers are also taking advantage of free training currently available regarding the new powers contained with the ASB Crime & Policing Act with further internal support being provided by managers. Member training is likely to cost in the region of £500-£1000 and will be met from existing training budgets.

- 8.2 There may be further resource implications in terms of enforcing the new powers available under the Act. It is likely that it will simply be a matter of reviewing and amending our current enforcement processes and procedures to account for the new powers. However, it is difficult at this stage to be able to provide a cost as these are completely new powers.

Members will be advised at the earliest available opportunity of any pressures on existing resources.

Legal Implications

Name & Title: Christopher Potter, Monitoring Officer

Tel & Email: christopher.potter@brentwood.gov.uk

- 8.3 This report relates to a new Act that will remove 19 pieces of legislation and replace them with 6. It impacts in many areas of enforcement as outlined in this report.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT. This legislation is designed to be fully inclusive and in particular will protect the most vulnerable in our community and ensure an effective partnership response to all incidents of ASB.

9. Background Papers

- 9.1 More Effective Responses to Anti- Social Behaviour
<https://www.gov.uk/government/publications/antisocialbehaviour-consultation-onmore-effective-responses>
- 9.2 Putting victims first: more effective responses to anti-social behaviour
<https://www.gov.uk/government/publications/puttingvictims-first-more-effectiveresponses-to-anti-socialbehaviour>
- 9.3 Anti-Social Behaviour, Crime and Policing Act 2014
<http://www.legislation.gov>

10. Appendices to this report

Appendix A	New Powers Chart
Appendix B	Summary of Powers
Appendix C	ASB Case Review Guidance

Report Author Contact Details:

Name: Tracey Lilley

Telephone: 01277 312644

E-mail: tracey.lilley@brentwood.gov.uk