

## **Safer and Stronger Communities Overview and Scrutiny Committee**

### **Update on the implementation of Anti-social Behaviour, Crime and Policing Act 2014**

**22 September 2015**



**Safe Durham Partnership**

---

### **Report of Ian Hault, Neighbourhood Protection Manager**

---

#### **Purpose of the Report**

1. The purpose of this report is to update the Safer and Stronger Communities Overview and Scrutiny Committee with the progress on the implementation of the ASB, Crime and Policing Act 2014.

#### **Background**

2. In July 2010 the Home Secretary announced a review of the Anti-social Behaviour Toolkit, to ensure it offered better protection to victims and communities and a more effective deterrent to perpetrators. The Home Office carried out an analysis of the use of specific tools and the way that different practitioners used the current toolkit and put forward some proposals for radically simplifying and improving this to tackle anti-social behaviour. Following consultation a simpler toolkit with 19 complex existing powers reduced to just 6 simple new ones has been enacted through the ASB, Crime and Policing Act 2014. (See Appendix 2 for an outline of the new ASB tools and powers).
3. The Safer and Stronger Communities Overview and Scrutiny Committee have previously received reports in October 2014 outlining the progress on implementation. The chair also facilitated a member awareness session which was available to all County Councillors in December 2014 to provide further information on the tools and powers and followed up with a briefing paper covering the main points along with the questions raised.

#### **Implementation**

4. The Anti-social Behaviour thematic delivery group of the Safe Durham Partnership coordinated the implementation of these new powers with six working groups from across a number of agencies, including social housing providers.
5. The coordination of the implementation allowed the development of the various procedures, recording systems along with delivering joint training. The following paragraphs summarise the area of change and the activity for each of the respective areas.

6. The **Community Trigger** can be used by victims and communities when they have reported anti-social behaviour to the Council, Police or housing provider, but feel that no adequate action has been taken. A Memorandum of Understanding between partners was produced. A web page is being created which will be hosted by Durham Constabulary which will explain the process of how to activate a Community Trigger and this will link to other partner websites. To date there have been **5 activations** by victims although these have not resulted in a panel following review.
7. A **Community Remedy** document for County Durham and Darlington has been prepared. This contains a list of actions which may be chosen by the victim for the perpetrator of anti-social behaviour or low level crime to undertake, when a community resolution, conditional caution or youth conditional caution is the chosen disposal. Actions include a written or verbal apology, mediation, Acceptable Behaviour Contract, attending a Restorative Justice Panel, reparation, tenancy enforcement. Restorative approaches are something that Durham has a strong track record in as the committee will be well aware of from previous work.
8. **Community Protection Notices (CPN)** can be used to tackle any behaviour that has a detrimental effect on the quality of life in a community and which is persistent and unreasonable. They will be more flexible than the orders they replace. The new powers can be used by local authorities, police and others suitably authorised persons.
9. In the first 9 months since implementation there have been over 450 warnings issued with just 1/3<sup>rd</sup> of these leading to official notices and 17% of the total resulting in FPN's. The range of issues tackled has also increased from littered yards/gardens to other specific areas that have affected the quality of life and could be evidenced. This demonstrates the effective use and success of tackling the quality of life issues with high levels compliance.
10. Work has also been completed on internal procedures relating to statutory powers as they continue in their current form and will not be superseded by this legislation but complimented in appropriate situations.
11. **Public Spaces Protection Orders** amalgamated a number of different powers covered under different pieces of legislation which currently exist including Dog Control Orders, Designated Public Place Orders (DPPO) and Gating Orders. The new legislation is much broader in its coverage and can include many other restrictions dependent on local needs. The new legislation is designed with the victim in mind and is, in practice, supposed to be far less bureaucratic than former legislation.
12. The existing orders in place require reviewing within 3 years from the commencement of the act, work has started on a review of DPPO's which is anticipated to be completed over the coming year to account for any new areas that may wish to be considered and consulted on.
13. The **Injunction to Prevent Nuisance and Annoyance**, available in the County Court for adults and the youth court for 10 to 17 year olds. It will be used to protect people from behaviour causing 'nuisance or annoyance' and can be used by a wide range of agencies including police, council and social landlords. To date social landlords have used the new injunction 1 time as an interim order with 3 full orders.

14. **Criminal Behaviour Orders** replaced ASBO's and are designed for persistent individuals where they are causing harassment, alarm and distress and can be applied for by Police or local authority. To date there have been 4 successful applications, 5 failed applications and with 2 pending cases due in the near future.

15. **Premises Closure Orders** can be used to deal with premises where drug misuse is causing nuisance or disorder currently this has not been used in Durham and is in line with expectations.

### **Recommendations and reasons**

16. The Overview and Scrutiny Committee is recommended to:

Note the contents of the report and the implications of the new ASB tools and powers.

### **Background Papers**

- ASB Briefing Report – 12/12/15
- Update on the Antisocial Behaviour, Crime and Policing Act 2014 – 28/10/14
- Anti-social Behaviour, Crime and Policing Act 2014
- <https://www.gov.uk/government/collections/anti-social-behaviour-crime-and-police-bill>

---

**Contact: Ian Houlton, Neighbourhood Protection Manager**  
**Tel: 03000 265 571 E-mail: [ian.houlton@durham.gov.uk](mailto:ian.houlton@durham.gov.uk)**

---

---

## **Appendix 1: Implications**

---

### **Finance**

There are ongoing costs associated with the utilisation of these new powers

### **Staffing**

N/A

### **Risk**

No adverse implications.

### **Equality and Diversity/ Public Sector Equality Duty**

No adverse implications.

### **Accommodation**

No adverse implications.

### **Crime and disorder**

Main focus of the report.

### **Human rights**

No adverse implications.

### **Consultation**

The Police and Crime Commissioner is required to consult on the Community Remedy. There has been wide ranging consultation as the Act has progressed.

### **Procurement**

No adverse implications.

### **Disability Issues**

No direct adverse implications.

### **Legal Implications**

The Act amends legislation that impacts on Durham County Council.

---

## Appendix 2: New Tools and Powers to tackle Anti-social Behaviour

---

Existing Orders	New Tools and Powers
ASBO, CRASBO, ASB Injunction, Drink Banning Order, DBO on conviction, Individual Support Order, Intervention Order	<b>IPNA (Injunction to Prevent Nuisance and Annoyance)</b>  <b>CBO (Criminal Behaviour Order)</b>
Litter Clearing Notice, Street Litter Clearing Notice, Gating Order, Dog Control Order, Premises Closure Order, Crack House Closure Order, Defacement Removal Notice, Noisy Premises Closure Order, Designated Public Place Order, S161 Closure Order	<b>Community Protection Notices</b>  <b>Public Spaces Protection Order</b>  <b>Community Protection Orders (closure)</b>
S30 Dispersal Order S27 Direction to Leave	<b>Dispersal Powers</b>

### **Injunction to Prevent Nuisance and Annoyance (IPNA)**

This is a civil injunction, available in the County Court for adults and the youth court for 10 to 17 year olds. It will be used to protect people from behaviour causing 'nuisance or annoyance' and can be used by a wide range of agencies including police, council and social landlords. It can also include positive requirements such as requiring individuals to seek help for their drug use. Breach of the IPNA would not be a criminal offence. An interim injunction can be obtained against the perpetrator to provide quick respite for the victim. The injunction could include a power of arrest if the anti-social behaviour included the use, or threatened use, of violence or risk of harm.

### **Criminal Behaviour Order (CBO)**

This will be available following a conviction for any criminal offence and can address the underlying causes of the behaviour through new positive requirements. Breach will be a criminal offence with a maximum penalty of up to 5 years in prison for adults. It has a similar application process to the ASBO on conviction.

### **Community Protection Notice**

Litter Clearing Notice and Street Litter Clearing Notice are being repealed and replaced with the Community Protection Notice. Fixed Penalty Notices will remain available. The Community Protection Notice can be used to deal with persistent littering and accumulations of waste. One of the benefits of using the CPN is that on breach it allows the Council to undertake works in default on any land 'open to the air' (such as a garden) to clear the rubbish with or without the owner's consent. Councils will be able to charge the full cost of any works to remove graffiti.

It is more flexible than the orders they will replace. The power can be used by Local authorities, police, registered housing providers and can be used by non-specialists (without an environmental health degree). Accumulations of litter and rubbish can also be dealt with as a statutory nuisance, where the behaviour is prejudicial to health or constitutes a nuisance. Council Environmental Health has a statutory duty to issue an abatement notice where this test is met.

### **Public Spaces Protection Order**

This will be used to limit the people who can access an area, such as by gating an alleyway at certain times. Where groups regularly congregate in a park to consume alcohol and their behaviour has a detrimental effect on the area, the council can make a PSPO prohibiting the consumption of alcohol, either at all times or during specific times when the problem is more likely to occur. Consideration should be given as to whether the problem will simply be displaced elsewhere. Who can use it – Local Authorities. The Council would have to consult with the police, the local community and the Police and Crime Commissioner. Existing orders will be allowed to run for a maximum of 3 years following the commencement of the new legislation. Local Authorities will have to implement new PSPO within that timeframe if they still want restrictions to remain in place.

### **Community Protection Order**

This Closure Power can be used to deal with premises where drug misuse is causing nuisance or disorder. The power allows the Police or Council to quickly close a premises for up to 48 hours. Where it is considered that the problem may recur or continue, a closure order can be applied for through the magistrates court to close the premises for up to 3 months initially with a further extension to a maximum period of 6 months.

### **Dispersal powers**

These will enable officers to require a person who has committed, or is likely to commit ASB to leave a specified area and not return for up to 48 hours. (The behaviour must be likely to cause harassment, alarm or distress to a member of the public). There is no requirement to pre-designate an area in advance before the power could be used. No longer the need to go through a process of gathering evidence of 'serious and persistent' anti-social behaviour and getting the agreement of the local authority, enabling police officers to quickly deal with emerging trouble spots.

### **New powers to speed up eviction for serious ASB**

Introducing a new absolute ground for possession to expedite the eviction of landlords' most serious anti-social tenants, (where evidence of serious ASB has already been established by a court). This should increase the chance that the case can be determined quickly in a single hearing. This new ground will be in addition to the existing discretionary ground for possession for ASB and landlords may choose to use this in preference to the existing discretionary ground where the tenant, member of their household, or visitor to the property has been convicted of a serious housing related offence, breach of an order or notice to abate noise, or breach of a CBO; or has been found by a court to have breached an injunction to prevent nuisance or annoyance; or the tenant's property has been closed for more than 48 hours under a closure order. Includes provisions to enable a landlord to apply for possession where the tenant or a person living in the tenant's property has been convicted of an offence committed during and at the scene of a riot which took place anywhere in the UK and for acts of ASB and criminality directed at the landlord's staff.

## **Community Trigger**

- If the victim/community/business feels that agencies have not taken adequate action re ASB incidents and problems persist they can request a review of the case and bring agencies together to take a joined up, problem solving approach to find a solution.
- Qualifying complaint – to prevent someone reporting historical incidents – the ASB was reported within one month of the alleged behaviour taking place, and the application to use the Community Trigger is made within 6 months of the report of ASB.
- Threshold – to be defined by the local agencies but not more than 3 complaints in the previous 6 month period. Also, take account of the harm or potential harm caused. If threshold is met, partner agencies undertake a case review. Agencies share information related to the case. Review what action has previously been taken and decide whether additional actions are possible. Victim is informed of outcome. Action plan and timescales discussed with victim.
- Relevant agencies – Council, Police, registered housing providers (To co-opt a social landlord – where there are a number of housing providers in an area, can be represented by one housing provider on behalf of the sector).
- The Police and Crime Commissioner (PCC) must be consulted on the Community Trigger procedure when it is set up and when it is reviewed. The PCC could be directly involved in providing a route for the victim to query decision on whether the threshold was met or the way the review was carried out, auditing case reviews, or monitoring use of community trigger to identify learning and best practice.

The Community Trigger is invoked if:-

- Victim reports 3 separate incidents relating to the same problem in the past 6 months to the Council, Police or landlord and no action has been taken.
- OR victim reports 1 incident or crime motivated by hate in the last 6 months and no action has been taken
- OR at least 5 people have made reports about the same problem in the past 6 months to the Council, Police or landlord and no action has been taken.

## **Community Remedy**

The Community Remedy gives victims a say in the out-of-court punishment of offenders for low level crime and anti-social behaviour. The Act places a duty on the Police and Crime Commissioner (PCC) to consult members of the public and community representatives on what punitive, restorative or rehabilitative actions they would consider appropriate to be on the Community Remedy document. The public consultation may be undertaken in whatever format the PCC considers appropriate (eg on-line consultation, talking to community groups and local victims groups, via local newspapers or a combination of formats). The legislation does not specify what actions should be included in the Community Remedy document. This will vary from one police force to another depending on the views of the local people and the availability of actions or activities. The Consultation is being carried out by Durham Police and Crime Commissioner, commencing 7 July 2014 and ending on 22 August 2014.

Following consultation the PCC and the Chief Constable will agree the actions to be listed, which can be chosen by the victim for the perpetrator to undertake in consequence of their behaviour or offending. However, the victims' involvement is voluntary and the victim must not be made to feel they should take part in a process they are not comfortable with, that they think may put them at risk, or that they do not believe will be of benefit to them.

The Community Remedy document for County Durham and Darlington will be used as part of the existing process for delivering community resolutions. It will also be used when a conditional caution or youth conditional caution is given, as a means of consulting the victim about the possible conditions to be attached to the caution. Typically, community resolutions are used when dealing with low level criminal damage, low value theft, minor assaults (without injury) and anti-social behaviour.

The following actions have been considered to be included in the Community Remedy document which will help improve public confidence in the use of out-of-court disposals and are compatible with the perpetrator's human rights.

- A written or verbal apology.
- Mediation-use of a third party to bring together both parties to reach a common agreement.
- Acceptable Behaviour Contract-written agreement specifying behaviour
- Attend a Restorative Justice panel.
- Shuttle conference- allows the victim and perpetrator to put their views to each other without meeting face to face.
- Repairing damage to property or cleaning graffiti.
- Paying an appropriate amount for damage to be repaired or stolen property to be replaced.
- Participation in structured diversionary activities, i.e courses, training.
- Targeted intervention i.e appropriate alcohol and drugs intervention, anger management courses.
- Reparation to the community e.g by doing local unpaid work for a short period such as picking up litter in a park.
- Parenting Contract- voluntary agreement signed by the perpetrator's parent/carer/guardian outlining expected behaviour.
- Counselling
- Tenancy enforcement-through social landlords (in appropriate cases)

These actions must be appropriate and proportionate to the types of offences for which community resolutions are used and seek to have a positive impact on the offender.

Each of the actions must have:

- Punitive element: reflecting the effects on the victim and the wider community.
- Restorative element: achieving appropriate restitution/reparation to the victim.
- Rehabilitative element: helping to address the causes of the perpetrator's behaviour
- Or a combination of these.