

REPORT FOR DECISION



DECISION OF:	Cabinet
DATE:	26 November 2014
SUBJECT:	Anti-social Behaviour, Crime and Policing Act, 2014
REPORT FROM:	Councillor Jane Lewis – Cabinet Member for Communities and Culture
CONTACT OFFICERS:	Rachel Henry, Anti Social Behaviour Manager Cindy Lowthian, Communities Manager
TYPE OF DECISION:	EXECUTIVE - KEY DECISION
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>This report provides an overview of new provisions for tackling anti-social behaviour contained within the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>The new provisions streamline tools for tackling anti-social behaviour with six new powers replacing 19 existing ones. Two new powers, the Community Trigger and Community Remedy, have been introduced to help focus the response to such behaviour on the needs of victims.</p> <p>The report outlines work being undertaken (through Bury's Community Safety Partnership) to prepare for the Act and develop a response within the capacity and resources available to local agencies.</p> <p>It seeks approval to a number of recommendations to ensure the Council is able to ensure effective implementation of the powers, most of which came into force on 20 October 2014.</p>

<p>OPTIONS & RECOMMENDED OPTION</p>	<p>Option 1 (preferred): It is recommended that:</p> <ul style="list-style-type: none"> (a) The new tools and powers in respect of anti-social behaviour are noted; (b) There is clear and consistent communication with all sections of the community to manage expectations and promote self help; (c) For the purposes of the Anti-Social Behaviour, Crime and Policing Act 2014, the following authorisations are approved: <p><u>Injunctions</u></p> <ul style="list-style-type: none"> (i) That the Executive Director for Communities and Wellbeing, in consultation with the Assistant Director - Legal and Democratic Services and Cabinet Member for Communities and Culture, be given delegated authority, where appropriate, to seek a Civil Injunction in accordance with Part 1 of the Anti-Social Behaviour, Crime and Policing Act 2014. <p><u>Community Protection Notices</u></p> <ul style="list-style-type: none"> (ii) That initially, officers from the Council's Environmental Health and Antisocial Behaviour team are authorised, where appropriate, to serve Community Protection Notices and Public Space Protection Orders (in accordance with Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014). (iii) That the level of fines for Fixed Penalty Notices (FPNs) issued as a sanction for breaching Community Protection Notices and Public Spaces Protection Orders be set at £90 to bring them in line with other Greater Manchester authorities and that the level is reduced to £60 for payment within 14 days of the FPN being issued. (iv) Further consideration is given to the feasibility of Six Town Housing and other social landlords becoming agents of the Council for the purposes of issuing Protection Notices, in accordance with the provisions of the Act. (subject to further Regulations being published). (v) Over the next six months, the Head of Environmental Protection, in consultation with the Assistant Director - Legal and Democratic Services, work with Greater Manchester Police to agree local arrangements for the issuing of Community Protection Notices and Fixed Penalty Notices (for breach of CPNs) by them. As the Prosecuting Authority, the Council aims to ensure
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	<p>consistent and appropriate use.</p> <p><u>Closure Notices</u></p> <p>(vi) That the Executive Director of Communities and Wellbeing, in consultation with the Cabinet Member for Communities and Culture, be granted delegated authority to issue a Closure Notice and apply for a Closure Order in accordance with Chapter 3 of the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p><u>Anti Social Behaviour Case Reviews (Community Trigger)</u></p> <p>(vii) The threshold for enacting Anti-Social Behaviour (ASB) Case Reviews is set at the minimum statutory level of 3 qualifying complaints within a six month period unless hate crime is a factor or where the victim scores 'amber' or 'red' on the risk matrix used to assess vulnerability in anti-social behaviour cases, in which cases immediate reviews may be enacted.</p> <p>(viii) The following people be designated to respond to Anti-Social Behaviour Case Reviews (Community Trigger):</p> <ul style="list-style-type: none"> • Acknowledgement – Anti-Social Behaviour Manager • Outcome (of the request for a Review) – Executive Director of Communities and Well Being or a senior manager nominated by the Executive Director • Appeal – Chair of Bury’s Community Safety Partnership <p>(ix) A review is conducted in six months to assess the impact of the legislation on demand.</p> <p>Option 2 That the proposals are not accepted.</p> <p>Option 1 is recommended for approval. Reasons:</p> <ul style="list-style-type: none"> • The provisions of the Act enable the Council and its partners to tackle anti-social behaviour. • Resource constraints limit the extent to which these powers can be applied • The proposals outlined will ensure appropriate, consistent and proportionate use of the new tools and powers.
<p>IMPLICATIONS:</p>	
<p>Corporate Aims/Policy Framework:</p>	<p>Do the proposals accord with the Policy</p>

	Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Start up costs (£2,760) will be met from existing budgets in the first instance. The scheme may generate income from fines in the future, however it is not possible to quantify these at this stage.
Health and Safety Implications	
Statement by Executive Director of Resources	There are no wider resource implications
Equality/Diversity implications:	Yes An Equality Analysis has been completed. The overall effect will be positive – the new measures will be utilised in Bury to help address harassment and victimisation, promote community safety, resilience and wellbeing.
Considered by Monitoring Officer:	Yes The legal implications of the Act for the Council are set out in the report and Appendix A.
Wards Affected:	All
Scrutiny Interest:	Yes: Report considered by Overview and Scrutiny Committee on 07/10/2014

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
	26.09.14 10.11.14		Community Safety Partnership, 28.10.14.
Scrutiny Committee	Cabinet/Committee	Council	
07.10.14	26.11.14		

1.0 Background

In May 2012 the Home Office produced a white paper, "Putting Victims First: more effective responses to Anti-Social Behaviour", which outlined how the Government would support local areas to;

- Focus the response to anti-social behaviour on the needs of victims
- Empower communities to get involved in tackling anti-social behaviour
- Ensure professionals are able to protect the public quickly
- Focus on long-term solutions

1.1 The Act received Royal Assent on 13 March 2014. Parts 2 - 6 will be implemented on 20th October 2014 and Part 1, relating to the power to make Injunctions, will be implemented by mid January 2015 (exact date to be confirmed).

1.2 Parts 1-6 of the Act cover anti-social behaviour; six new powers replace 19 existing ones and are designed not only to provide effective respite for victims and communities but also to stop future anti-social behaviour by the offender. Through the inclusion of 'positive requirements', perpetrators may be required to address the underlying causes of their behaviour, for example, substance misuse, anger management or problem drinking.

1.3 Some of the powers are designed to address the anti-social behaviour of individuals while others relate to environmental nuisance and anti-social behaviour in a particular location. The Act also introduces the Community Remedy and Anti-Social Behaviour Case Reviews (Community Trigger) which are designed to give victims and communities a say in the way anti-social behaviour is dealt with.

2.0 Consultations

2.1 The Home Office conducted a range of consultation events, both on line and face to face with the public and professionals. These have informed the White Paper published in 2012, the Draft Bill and the final Act which gained royal assent in March 2014. The Bill was also subject to pre-legislative scrutiny.

2.2 Consultation on the Community Remedy has been overseen by the Office of the Police and Crime Commissioner (PCC) for Greater Manchester who have responsibility for developing this for use by Police Officers. A Greater Manchester wide online survey was promoted locally to capture the views of Bury residents. The PCC's office is collating responses to inform the final document. A significant proportion of responses collated to date have come from people living in Bury (23%).

2.3 These changes were also discussed at Overview and Scrutiny with a view to feedback from the Committee being used to shape the policy. A major issue for

Members was the ability of the Council and its partners to implement these changes during austere times. Whilst this remains a risk, resource availability has been factored into the recommendations included within this report.

3.0 **Local Response**

3.1 Home Office guidance stresses that the new powers work best when complemented by effective partnership working and information sharing at a local level, using early and appropriate interventions to challenge anti-social behaviour. Bury benefits from a range of strong multi-agency approaches to tackle ASB which have provided the foundation for preparing a response to the new legislation. This includes:

- Multi-agency case conferences and problem solving forums.
- Joint Campaigns e.g. Safe4Summer, Be Safe Be Cool.
- Community based solutions including Restorative Justice Panels. The Panels are made up of trained community volunteers, who bring together both the victim (harmed) and the offender (harmer), and through mediation and dialogue work together to reach agreed outcomes outside of the criminal justice system
- Supporting Communities Improving Lives Team (SCIL) – working with families who are involved in criminality or anti-social behaviour through an intensive, co-ordinated approach that looks at the needs of the whole family.

3.2 Partnership approaches were strengthened in June 2014 through the establishment of a multi-agency 'Joint Enforcement Team' (JET) at Bury Police Station. JET brings officers from the Police, Council and Six Town Housing together to share information, undertake joint problem solving and tasking to resolve criminal, anti-social and environmental issues, protect victims and instigate action against perpetrators.

4.0 **Details of the new powers:**

4.1 Key changes arising as a result of the Act are outlined in **Appendix A**. These can be summarised as follows:

- Replacement of Anti-Social Behaviour Orders and a range of other court orders targeted at anti-social individuals with two new tools: **Injunctions and Criminal Behaviour Order**. The new orders can have positive requirements attached to them to support perpetrators and address the root causes of their offending behaviour.
- Consolidation of a range of tools to deal with place specific anti-social behaviour. The aim has been to simplify the range of remedies available to address a wide range of behaviours that negatively affect the quality of life of residents living in a particular area. These include **Community Protection Notices (CPNs), Public Spaces Protection Orders (PSPOs), Closure Powers and Police Dispersal Powers**.
- Introduction of an **Absolute Grounds for Possession** in assured tenancies (private rented housing) and secure tenancies (social housing) where criminality has already been proved by another court.

- Introduction of a new '**Community Remedy**' which uses a restorative justice approach to deal with low level crime and anti-social behaviour. The Greater Manchester Police and Crime Commissioner is responsible for publishing a 'Community Remedy Document' following community consultation.
- Introduction of a new ASB Case Review (Community Trigger). This will impose a duty on the statutory partners from Bury's Community Safety Partnership (CSP) to conduct a review of cases where victims or communities have complained about ASB on a number of occasions and they perceive local agencies have failed to respond effectively. Officers from the Joint Enforcement Team (JET) are currently working together to develop a locally agreed consistent procedure.

5.0 Progress to Date:

5.1 Planning work for the implementation of the new tools and powers is being overseen by the Anti-Social Behaviour Task and Finish Group. This group, chaired by the Director of Neighbourhoods from Six Town Housing, comprises of representatives from Six Town Housing, the Council's Community Safety and Environmental Services teams and the Police. This group was commissioned by the Community Safety Partnership (CSP) in November 2013 to review and improve the CSP's response to anti-social behaviour which led to the establishment of the Joint Enforcement Team. The local response to the changes in legislation is summarised below:

- Officers from JET (Police, Bury Council and Six Town Housing) are represented on the Greater Manchester ASB Reforms Group. This group has met over a number of months to develop shared templates and processes for utilising the new tools and powers.
- Representatives from the JET (Police, Council and Six Town Housing) attended the 'Train the Trainer' course at GMP Force Head Quarters. These representatives have delivered cascade training to front line staff from the Police, Council and Housing Providers. It is also proposed that a presentation is shared with councillors at a future member briefing.
- Three working groups have been established to plan for, and develop processes to utilise the new tools and powers. One Group is tasked at looking at the 'People' based powers (Chaired by the Anti-Social Behaviour Manager), including Injunctions and Criminal Behaviour Orders. The second group, chaired by the Head of Environmental Protection, is looking at the 'Place' based powers including Community Protection Notices, Public Spaces Protection Orders and Closure Powers. The third working group is looking at the new 'Putting Victims First' measures, namely the ASB Case Reviews and Community Remedy. This group is chaired by the Partnership Sergeant from GMP. These groups bring together a range of agencies including the Police, Community Safety Team, housing providers, Youth Offending Team and Drug and Alcohol, Mental Health and Environmental Services.

6.0 Risks

6.1 Managing Expectations – the Council and partners need to continue to manage expectations in relation to ASB and the use of the new tools and powers within a challenging financial climate.

- 6.2 Current levels of funding from the PCC have been insufficient to cover the full costs of two ASB Caseworkers, so the Council's ASB casework capacity has reduced by half through the loss of one post. There has also been reductions in enforcement staff numbers in Environmental Protection.
- 6.3 The emphasis will continue to be on self help where possible, so that individuals are encouraged to resolve lower level issues of ASB themselves (without having to involve wider agencies which can sometimes make matters worse). The Council and partners will seek to use the new tools and powers in a consistent and proportionate way, particularly for more serious cases.
- 6.4 Opportunities for collaborative working through the Joint Enforcement Team (JET) and Supporting Communities Improving Lives (SCIL) will continue in order to make the best use of partner resources and achieve efficiencies through more effective liaison and case management. Discussions are underway with GMP to review working practices to improve responsiveness and deliver better outcomes to local people more efficiently.

7.0 **Financial Implications**

- 7.1 An Impact Assessment undertaken through the Home Office indicates that additional costs could be incurred to local authorities and other ASB practitioners associated with the introduction of the new Injunction. This is as a result of the potential for increased use of the injunction (lower burden of proof and thresholds). Prosecuting breaches of the new injunctions will also fall to the prosecuting agency (that led on the injunction) rather than the police (as is currently the case). Other indirect costs could arise from introducing 'positive requirements' if these involve council services.
- 7.2 Local estimates are that the new injunctions could incur an additional £2760 for the first year (based on current application levels for Anti-Social Behaviour Orders (ASBOs)).
- 7.3 There is also potential for an impact on the workload of the Council's legal team if there are breaches of Community Protection Notices and appeals. This is because the local authority is the prosecuting authority no matter which agency issues the notice. The Council will work with Greater Manchester Police to agree local arrangements for issuing of Community Protection Notices and Fixed Penalty Notices (for breach of CPNs) to ensure consistent and proportionate use.
- 7.4 There are provisions where there is a breach of a CPN, for the Council to take remedial action to address the issue. This could be clearing rubbish or cleaning off graffiti. Although reasonable charges for the work, equipment and administration can be charged to the perpetrator there is a risk of appeal and also risk of not being able to recover the full costs incurred.

8.0 **Conclusions**

- 8.1 The Act constitutes the biggest reform of anti-social behaviour legislation in over 10 years. It offers opportunities to the Council and partners to bring swift and effective relief to residents from anti-social behaviour in all forms.

- 8.2 It is essential that we utilise the powers as fully as possible within existing resources while managing the expectations that their introduction will raise within Bury's communities.
- 8.3 The Council will continue to work with partners to agree local procedures which are effectively co-ordinated and monitored, particularly in relation to the use of Community Protection Notices.
- 8.4 The JET team have agreed to review the use of the new powers in Bury after 6 and then 12 months from the implementation date of 20th October 2014. This will allow them to address any areas of concern and share good practice to ensure a continued effective partnership response to ASB in the Borough.

Background Papers

Anti-Social Behaviour, Crime and Policing Act, 2014. [Legislation](#) (Click)
Statutory Guidance, July 2014. [Guidance](#) (Click)
Greater Manchester Police and Crime Commissioner, Community Remedy
Consultation. [Community Remedy Consultation](#) (Click)
[Overview and Scrutiny Report, 07.10.14](#) (Click)

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Appendix A – Details of the new Powers

(A) Power to grant Injunctions

The power to grant injunctions replaces 4 existing powers including Anti-Social Behaviour Injunctions and stand alone Anti-Social Behaviour Orders (ASBOs). In an attempt to reduce the burden on agencies of making applications on behalf of others, the legislation allows several agencies to make applications namely the Police, Council, Social Housing Providers, NHS Protect and the Environment Agency.

The types of behaviour this power is designed to address include vandalism, public drunkenness, and irresponsible dog ownership and noisy / abusive behaviour towards neighbours.

The responsibility for prosecuting breaches of the injunctions lies with the agency who applied for the injunction. For an adult a breach is contempt of court, punishable by a term of imprisonment of up to two years or an unlimited fine. Breach of injunction by someone under 18 could result in the youth court imposing a supervision order or, in the most serious cases, a detention order for those aged between 14 and 17. It is a requirement for the prosecuting agency to consult with the Youth Offending Team if the injunction will apply to a juvenile.

(B) Criminal Behaviour Order

The Criminal Behaviour Order (CBO) replaces the Anti-social Behaviour Order on Conviction (CRASBO) and Drink Banning Order on Conviction.

The CBO will be available on conviction for any criminal offence. The application will be made by the prosecuting agency which will usually be the Crown Prosecution Service but could be the Council e.g. for prosecutions under the Environmental Protection Act 1990. Breach is a criminal offence.

The CBO can include prohibitions to stop the offender from engaging in certain types of behaviour and can also include requirements for the offender to engage in activities to address the causes of their offending.

It is a requirement for the prosecuting agency to consult with the Youth Offending Team if the Criminal Behaviour Order will apply to a juvenile.

(C) Community Protection Notice

The Community Protection Notice (CPN) replaces the Litter Clearing Notice, Street Litter Clearing Notice and Graffiti/Defacement Removal Notice. It is intended to address a wide range of behaviours that negatively affect the quality of life of residents living in a particular area where the person or people responsible can be identified.

A CPN can be given to any individual who is over the age of 16 or a named representative of a business or organisation. It does not replace the statutory nuisance regime, for example noise that is classified as a 'statutory nuisance' will continue to be dealt with by environmental health officers under existing legislation.

'Authorised Persons' can issue a Community Protection Notice. This includes; a police constable and a PCSO (as the Chief Constable has stated his intention that PCSOs will be authorised to use these powers in Greater Manchester), officers or agents of the relevant local authority or a social housing provider if the housing provider is designated by the local authority.

A further Order needs to be laid before Parliament to facilitate the designation of social housing providers which is anticipated to happen within the next six months. Two social housing providers in Greater Manchester have agreed to act as pilots to test these powers and will then share the learning gained including risks and opportunities presented by designating the powers, across the region.

The breach of a CPN is a criminal offence, which is punishable by a level 4 fine if a successful prosecution is brought, or by serving a Fixed Penalty Notice. Police Officers, PCSOs, Council Officers and social housing providers if designated by the Council will have the power to issue a Fixed Penalty Notice and each local area must set the level of fine at an amount not exceeding £100. The Council (or another agency appointed by the Council) can apply for a Remedial, Forfeiture or Seizure Order if the CPN is breached and it is felt that the matter is so serious that a court order is warranted.

Local Authorities are identified in the legislation as the Prosecuting Authority. This means that they are responsible for prosecuting all breaches of CPNs, including those issued by the Police. Fixed Penalty Notices issued by the Police (which in effect offer the individual the opportunity of discharging liability for such a prosecution) are payable to the Local Authority.

The Home Office has indicated that they do not anticipate a significant increase in the use of the notices as a result of the new powers; a number of safeguards have been built in to ensure notices are used proportionately including guidance which makes it clear that they should only be issued where there is no 'reasonable excuse' for the problem and there would be defence of having taken 'all practical measures' to address the issues. The Litter Clearance Notices and Graffiti Removal Notices which are being replaced by the CPNs have been of limited use because of their narrow remit and the cumbersome processes involved. It is anticipated that the CPN will be a more flexible and straightforward power to use and will be beneficial in addressing issues that don't meet the statutory nuisance threshold.

(D) Public Spaces Protection Order.

The Public Spaces Protection Order (PSPO) replaces the Designated Public Place Order, Gating Order and Dog Control Order and is only available to Local Authorities. It is intended to deal with a particular nuisance in an area, which negatively affects the community's quality of life. The restrictions imposed by the Order will apply to everyone or a specified group of people using that geographical area for example by restricting the use of a highway between certain hours or the drinking of alcohol in a public space. Orders can last for up to three years before requiring a review. Where an area has a current gating or dog control order in force this will continue to be valid for 3 years following the implementation of the new powers although the Council can review current orders prior to this date.

The breach of a PSPO is a criminal offence which is be punishable by a level 3 fine if a successful prosecution is brought or the serving of a Fixed Penalty Notice. Police Officers, PCSOs, Council Officers and social housing providers (if designated by the

Council) will have the power to issue FPNs and each local area must set the level of fine at an amount not exceeding £100.

(E) Closure Power

The Closure Power replaces the Premises Closure Order, Crack House Closure Order, Noisy Premises Closure Order and S161 Closure Order. Both the Police and Local Authorities can use this power.

Initially a Closure Notice would be issued out of court by the Police or an identified person within the Local Authority in cases of possible or actual public nuisance associated with particular premises, for up to 48 hours. In all cases where a Closure Notice is issued, an application must be made to the Magistrates Court either to cancel the notice or for a Closure Order to be made. An Order can last up to 3 months extendable by a further 3 months.

There is a requirement for the police and local authority to consult before utilising this power. A Police Inspector can authorise a Closure Notice for up to 24 hours and a Police Superintendent for up to 48 hours. Officers need to be designated by the Chief Executive of the Council to issue Closure Notices although consideration needs to be given to the fact that they may need to be issued out of hours. A process therefore needs to be established whereby an officer within the Council will be available to issue and / or be consulted should this need arise.

(F) Police Dispersal Power

The Police Dispersal Power replaces the Dispersal Order and Direction to Leave. The Dispersal Power can be used by a Police Officer or PCSO to direct a person aged 10 and above who has committed, or is likely to commit anti-social behaviour, crime or disorder, to leave a specified area, and not return for a specified period of up to 48 hours. This does not replace the power to return a child under the age of 16 (who is on the streets between 9pm and 6am without an adult) home or to a place of safety. Failure to comply with a direction under this power is a criminal offence.

(G) Absolute Grounds for Possession

This will give social and private landlords the power to apply to the court to gain possession of a property if the tenant, a member of their household or a visitor has met one of the following conditions:

- 9.0 Convicted of a serious criminal offence
- 10.0 Found to have breached an Injunction under made under the Anti-Social Behaviour, Crime and Policing Act
- 11.0 Convicted for a breach of Criminal Behaviour Order
- 12.0 Convicted for a breach of an Abatement Notice
- 13.0 Had their property closed for more than 48 hours under a Closure Order.

There is no requirement for the landlord to prove that it is reasonable for the court to grant possession and the court cannot suspend possession for more than 14 days (or 6 weeks in exceptional circumstances).

Giving Victims a Say

(H) Community Remedy

The Community Remedy is a menu of options, developed by the Police and Crime Commissioner in consultation with the public that aims to give victims a say in the out of court punishment for offenders of low level crime and anti-social behaviour. The Remedy is likely to include options such as making a written apology, signing an Acceptable Behaviour Contract, and doing unpaid work. The Community Remedy is designed to complement the Neighbourhood Resolution Panels available in many local areas and bring Restorative Justice formally onto the statute books. There is no penalty for failing to comply with a community remedy disposal unless it is part of a conditional caution but this could be used as evidence towards more punitive action. The same Remedy document will be available across Greater Manchester.

(I) Anti-Social Behaviour Case Reviews

The Act introduces a requirement for relevant bodies within a local authority area to carry out a review when this is requested by a victim or victims and their case meets a locally agreed threshold. This threshold cannot be higher than:

1. Three incidents have been reported to the Council, Police and / or social housing provider in the last six months.
2. Or five individuals in the local community have complained separately to the Council, Police or social housing providers in the last six months about similar incidents of anti-social behaviour.

Once a case review has been triggered, there is then a requirement for relevant bodies, identified as Councils, Police Forces, Clinical Commissioning Groups and social housing providers who are co-opted into the group, to undertake a case review. The relevant bodies would collectively consider if the Anti-Social Behaviour Case Worker threshold has been met and recommend further actions deemed appropriate. The action plan will then be shared with the victim. If they are not satisfied with this response, they can appeal to the Chair of the Community Safety Partnership and ultimately the Police and Crime Commissioner. A locally agreed consistent approach to managing such complaints dealt with by this process is currently being developed.

Manchester City Council was one of 4 national pilot areas which tested the ASB Case Reviews. The processes developed in Manchester under this pilot have been used by Bury and other local authority areas to inform local processes.