

Report to the Cleaner, Greener and Safer Scrutiny Committee

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Update on the Anti-Social Behaviour, Crime and Disorder Act 2014



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Introduction

This scrutiny report provides an overview of the changes introduced by the Anti-Social Behaviour, Crime and Disorder Act 2014, including the Borough Council's role in delivering appropriate responses to these changes, in particular, Part 6 (the 'Community Trigger').

Background

ASB is defined as "someone acting in a manner that has caused, or is likely to cause, harassment, alarm or distress to one or more persons not of the same household".

The (national) Government pledged they would review the way ASB is dealt with via new legislation. The resulting Anti-Social Behaviour, Crime and Disorder Act 2014 which is scheduled to come into effect from 20th October 2014 and replaces current ASB legislation, placing new duties on local authorities, including aspects of the Crime and Disorder Act 1998 and Anti-Social Behaviour Act (2003).

Parts 1 -7 of the Act are of most interest to local authorities and these can be summarised as follows;

- Part 1 makes provision for a civil injunction for ASB
- Part 2 makes provision for an order on conviction to prevent behaviour which causes harassment, alarm or distress
- Part 3 contains powers for police to disperse people causing or likely to cause harassment, alarm or distress or likely to cause crime or disorder in a specified area and not return for up to 48 hours
- Part 4 covers new powers to deal with community protection and makes provision for Community Protection Notices (CPN), Public Space Protection Orders (PSPOs) and to close premises associated with nuisance or distress.
- Part 5 makes provision for possession of homes on ASB grounds (by RSLs)
- Part 6 contains provisions to establish a community remedy document and responding to complaints of ASB (the 'Community Trigger')

- Part 7 amends the powers under the Dangerous Dogs Act (1991).

The Borough Council's Partnerships Team has responsibility for community safety and related partnership work within the Newcastle Partnership and also administers the Community Safety Partnership (CSP) to discharge statutory obligations, including ASB.

The Borough Council's Environmental Health service has responsibility for discharging the Council's statutory duties – including dealing with complaints/enquiries regarding licensing, noise nuisance dangerous dogs, inappropriate storage of trade waste and litter enforcement.

Finally, the Borough Council's Legal service provides advice and assistance in relation to ASB and Environmental Health including the enforcement of civil proceedings.

Further information on the Act

As outlined above the new Act replaces a number of existing provisions:

- Part 1 – civil injunctions replace the current ASB Orders and will be available in the county court (adults) and the youth court (10-17 year olds). They will allow agencies such as Police, councils and RSLs to deal quickly with ASB
- Part 2 – Criminal Behaviour Orders (CBOs) replace the current Criminal ASB Orders (CRASBOs). CBOs will be available following conviction for any criminal offence, addressing the underlying causes of ASB via new, positive requirements. A breach will be a criminal offence with a maximum of up to five years in prison for adults
- Part 3 - powers to enable police to require people who have committed/likely to commit ASB to leave a specified area and not return for up to 48 hours.
- Part 4 – Community Protection, including:
 - Community Protection Notices (CPNs) – replace litter clearing notices, defacement removal notices and street litter control notices and can be issued by councils, police and RSLs to individuals/businesses.
 - Public Spaces Protection Orders (PSPOs) – deal with a nuisance or problem in a particular area detrimental to the local community's quality of life by imposing conditions on the use of that area
 - Closure Notices/Orders – two-stage process covering licensed and non-licensed premises. Notice cannot last for more than 48 hours and may be followed by a Closure Order issued by the court and can last up to three months. Closure Notice/Order will automatically trigger premises reviews and replace s.161 and s.165 of the Licensing Act 2003

These new powers are intended to be faster, more effective and available to more agencies to tackle a range of place-specific ASB and criminal behavior

- Part 5 – to be used by RSLs for the recovery of possession of dwelling houses. ASB can have a negative impact on neighbourhoods/communities and RSLs have a key role. Provisions in the Act introduce a new ground for possession to speed up the process in the most serious ASB cases, thereby potentially bringing faster relief to victims and communities
- Part 6 – seeks to involve the community/victims in both punishment and remedies for ASB. The Police and Crime Commissioner (P & CC) must prepare a Community Remedy Document listing possible remedies to be carried out by offenders/perpetrators. These remedies can be accepted and undertaken without going to court as an alternative to prosecution. The P & CC must consult with the Police, Local Authorities and the wider public during the preparation of the document and then publicise when it is finalised. Part 6 also introduces the 'Community Trigger' (or ASB case review) allowing victims of persistent ASB to request a case review. In that case, the relevant bodies must share information, discuss previous action taken and decide on any further action. There is a statutory duty for the threshold, criteria and mechanism for the community trigger to be published by councils. Applicants must be informed of the outcome and advised of the arrangements for reviewing the process if they are not satisfied.

The 'Community Trigger'

The plan for Newcastle-under-Lyme is to adopt a 'community trigger' threshold of 'three complaints from one complainant (or somebody on their behalf) to a statutory agency within a six month period regarding three separate ASB incidents' or alternatively an immediate trigger if the complaints are deemed to be hate crime related in line with the minimum statutory requirement.

The Borough Council, County Council, Staffordshire Police, Health or RSLs may all be approached by a victim of persistent ASB to instigate the trigger.

Partners will co-ordinate trigger requests via the Partnership Hub, which meets on a weekly basis to provide assistance/solutions to vulnerable residents.

The appeal process for victims of persistent ASB who are not satisfied with the trigger review will be determined within the partner organisation with which the review was requested. For example if received by the Borough Council then the appeal would progress to the Head of Business Improvement, Central Services and Partnerships and if received by Aspire Housing it would progress to the Head of Housing. This follows the principle adopted elsewhere in the County and provides some independence to the decision making process and the person considering the appeal should not have had any previous involvement in the case or subsequent investigation.

Partners have been consulted on the proposal and have all agreed to adopt the Community Trigger threshold and accompanying procedure in their respective organisations.

Changes to the Scheme of Delegation

It is necessary to add to the Council's Scheme of Delegation to enable the Council to make use of the various provisions within the Act. The Scheme of Delegation relating to this Act has been designed to facilitate the use of the statutory provisions provided to the Council in a timely manner. The proposed additions to the scheme of delegation are detailed within Appendix A.

The Act enables the Council to issue a Fixed Penalty Notice (FPN) for offences involving a breach of a Community Protection Notice or a Public Spaces Protection Order in order to discharge a liability to conviction. Fixed penalties will only be offered where it is considered appropriate to do so and in any case in line with the council's adopted Enforcement Policy.

Subject to the FPN being paid in full within 14 days, the recipient is not liable to prosecution by the council for the relevant offence. If the FPN remains unpaid after the 14 days, the offender will normally be prosecuted by the Council in line with the council's adopted Enforcement Policy.

The maximum penalty that can be imposed is £100 and this must be paid within 14 days of service of the FPN. However, it is possible to impose a lesser penalty for early payment and it for each authority to decide their penalty in the absence of statutory guidance. Accordingly the following Fixed Penalty amounts are proposed:

- Payment of FPN within 10 days of issue £70
- Payment of FPN between 10 and 14 days of issue £100.

There are a number of gating orders, dog control orders and orders restricting consumption of alcohol operating in various areas across the Borough

These orders will automatically expire at the end of 3 years once Chapter 2 of the Act comes into force. Should the council wish to exercise similar controls moving forward, these will need to be in the form of Public Spaces Protection Order(s). Once an order is made it will be the subject of a formal 3 yearly review by the relevant committee in order to extend the order for it to remain in force.

It is not proposed to amend any existing orders at present.

Questions to be Addressed

A number of questions can be posed as a result of these changes, including:

- Do Members believe that the new powers under the Act will be effective in dealing with ASB and related issues?
- Is the 'Community Trigger' threshold set at an appropriate level?
- Do Members feel that the community trigger appeal process is reasonable?
- Are the FPN amounts set out in this report acceptable to Members?

- Do Members feel that any of the other orders outlined in this report should be changed?

Outcomes

- For Members to be aware of the changes to the ASB process being implemented as a result of this Act
- For Members to have the opportunity to input into the process and make suggestions
- For Members to participate fully in any future action around ASB and to be able to action the proposals set out in the Act

Supporting Information

Appendix A – Proposed Amendments to the Council's Scheme of Delegation

Invited Partners/Stakeholders/Residents

Staffordshire Police

Locality Action Partnerships

Residents' Associations

Constraints

The provisions of the Act are yet to be implemented, so this is work in progress at this stage.

Conclusions

The report sets out the provisions of the Anti-Social Behaviour, Crime and Disorder Act 2014.

The report also provides a summary of the changes being proposed in Newcastle by the Borough Council and its partners.

The report requests Members to take note of the changes and provide input into the process.

Relevant Portfolio Holder(s)

Safer Communities – Cllr Tony Kearon

Local Ward Member (if applicable)

N/A – covers all wards