

TRAFFORD COUNCIL

Report to: Executive
Date: 1 December 2014
Report for: Information
Report of: Executive Member for Communities and Partnerships

Report Title

Anti-Social Behaviour, Crime and Policing Act 2014

Summary

To inform the Executive of the new powers available under the Anti-Social Behaviour, Crime and Policing Act 2014. The report also seeks authority to delegate the community safety functions to the Corporate Director for Transformation and Resources. The delegation will allow the Corporate Director for Transformation and Resources to authorise appropriate officers to utilise the new powers available to the Council.

Recommendations

1. That the contents of this report are duly noted.
2. To delegate all functions relating to Community Safety to the Corporate Director for Transformation and Resources. Such delegation to include;
 - (a) The exercise of all functions, powers and duties including the taking of any appropriate enforcement action.
 - (b) The issuing of notices and cautions and, in consultation with the Director of Legal and Democratic Services, bringing proceedings under any appropriate legislation, statutory provisions and by-laws.

Contact person for access to background papers and further information:

Name: Liz Baxter
Extension: 3434

Background Papers: None

Overview

1. This Report sets out the new powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) and summarises how the changes affect the Council. The Act came into force, for the most part, on 20 October 2014. The objective of the Act is to provide a more effective way to tackle anti-social behaviour (ASB) with an emphasis on partnership working. It reduces the legal remedies available from 19 to 6. Table 1 summarises the pre Act and post Act changes to the remedies available to the Council.

Table 1 – The Anti-Social Behaviour, Crime and Policing Act 2014 – Summary of pre and post act changes.

Pre Act Legal Remedies	Post Act Remedies
Anti-Social Behaviour Order (ASBO) ASBO on Conviction Drink Banning Order (DBO) DBO on Conviction Anti-Social Behaviour Injunction Individual Support Order Intervention Order	Civil Injunction Criminal Behaviour Order
Litter Clearing Notice Street Litter Clearing Notice Graffiti/Defacement Removal Notice Designated Public Places Order Gating Order Dog Control Order ASB Premises Closure Order Crack House Closure Order Noisy Premises Closure Order Section 161 Closure Order	Community Protection Notice Public Spaces Protection Order New Closure Order
Section 30 Dispersal Order Section 27 Direction to Leave	Dispersal Power
No previous equivalent for secure tenancies.	Absolute Power for Possession

2. The Act modifies the previous injunction regime and brings in Criminal Behaviour Orders, Community Protection Notices, Public Spaces Protection Orders, Closure Orders and Dispersal powers. There is now also an additional landlord power to seek absolute possession.

Injunctions/Anti-Social Behaviour Orders

3. The Act will continue to allow the Council to apply for an injunction against individuals aged 10 and over who are causing a nuisance or annoyance. However, the Council will now be able to apply for positive as well as prohibitive requirements. The legal threshold has now been lowered to include “a likelihood” of ASB instead of, as previously, having to prove ASB was occurring. A breach of the injunction may result in a two year custodial sentence or/and an unlimited fine.
4. The changes in the Act now mean that the Council will no longer be able to make applications for ASBOs, as future applications will only be made by the Police through the CPS.

Community Protection Notice

5. The previous powers to serve Street Litter Control, Litter Clearing and Defacement Removal Notices are now replaced by the Community Protection Notice (CPN). The effect of such orders is to prevent an individual from doing something, i.e. dropping litter or requiring them to do something i.e. pick up litter. The enforcement procedure of the CPN is a three step procedure and requires a written warning to be served on the offender, allowing the offender sufficient time to deal with the behaviour and a requirement that the behaviour must still be affecting the community’s quality of life. Breach of a CPN is a criminal offence which could be dealt with by issuing a Fixed Penalty Notice (FPN), or the offending item could be seized, or the Council may choose to prosecute. Prosecution may result in a fine of up to £2,500. However, the Council will still retain the statutory power to issue abatement notices.

Public Spaces Protection Order

6. The Council’s powers to issue Designated Public Place Orders, Gating Orders and Dog Control Orders have been replaced by the Public Spaces Protection Order (PSPO). The new order intends to ban, or regulate, an activity where there is a persistent nuisance, which is having a negative impact on that community. This could include, for example, banning the consumption of alcohol in public spaces or it may impose a requirement on dog owners to put their dogs on a lead. Evidence from the Police and the community will need to be gathered to support its need. There are publishing and consultation requirements which will need to be complied with before applying for an order. PSPOs could last for up to 3 years and thereafter be extended for a further 3 years. A breach of a PSPO may be dealt with by FPN or a prosecution, which could result in a fine of up to £1,000. The validity of a PSPO could be challenged in the courts.

7. The effect of the Act is that Trafford Council's current Designated Public Place Orders will now automatically convert into PSPOs. They will remain in force for 3 years after the commencement of the Act. After this period, the Council will need to satisfy the legal conditions required to extend the order.

Closure Order

8. The Closure Order power has also been modified. Before an application for a Closure Order can be made, a Closure Notice needs to be issued. A Notice can be issued by the Council following a consultation with the individuals that the Notice is likely to affect. The effect of the Notice is that whilst it shuts down a premise for 48 hours it does not prevent those who habitually reside there to enter it. After the Closure Notice has been issued, the Council may apply to the court for a Closure Order to close the premises for up to 6 months. The test for a Closure Order has been lowered. There must be proof of there being "a likelihood" of ASB occurring if a Closure Order is not granted. A breach of the Closure Order may result in a fine up to £2,500 for an individual.

Dispersal Power

9. The police will continue to have the Dispersal Power, which allows them to order those over the age of 10, to leave an area for up to 48 hours if they are displaying anti-social behaviour. However, consultation with the Council in this regard will no longer be required

Mandatory Possession

10. A new power of absolute possession has been introduced for all landlords. This will, in theory, expedite the eviction of most tenants engaging in anti-social behaviour. Possession orders will have to be granted by courts if the property or its tenants are closely linked with anti-social behaviour. This is a change for secure tenants as this will be the first time a mandatory ground for possession will be used against this category of social tenant.

Community Trigger

11. The Act introduces a community trigger. The community trigger is a mechanism for victims of anti-social behaviour to require action, starting with a review of their case. The threshold for such a review is that at least 3 qualifying complaints have been made (within the last 6 months) about the anti-social behaviour to which the application relates and the individual believes that there has been a lack of action. For the purpose of the community trigger, anti-social behaviour is defined as behaviour that is likely to cause harassment, alarm or distress to any member of the public.
12. The focus of a community trigger case review is to bring agencies, including the Council, together to take a more joined up, problem-solving approach to find a solution for the victim. The agencies will have a duty to undertake a

case review when someone requests one. The procedure for carrying out the case review will be set by the local agencies including the Council. The procedures must also include the point of contact for making applications and ensure that applications are passed to all the relevant bodies in the area.

13. In Trafford, the point of contact for Community Triggers will be the Council's Strategic Manager for Crime and Anti-Social Behaviour who will pass on applications made for any review to all relevant local agencies as part of the review process. Once a referral for a case review is received, all the agencies concerned will meet to review the complaints received and account for their actions or inactions. Each agency will still hold its own record of complaints received with the trigger being invoked. The Council will work with its partners to agree the procedures required by the Act.

Community Remedy

14. Victims and communities will also now have a greater say in how the perpetrator of ASB is dealt with. The Community Remedy is designed to give victims of lower level crime and anti-social behaviour more of a say in "the out of court disposal" of the offender. This will mainly affect the police.

Delegated Authority

15. The proposed delegation is to the Corporate Director for Transformation and Resources. The delegation will allow the Corporate Director for Transformation and Resources to authorise appropriate officers to utilise the new powers available to the Council.

Relationship to Policy Framework/Corporate Priorities	Residents living in areas of high deprivation suffer disproportionately from the impacts of ASB. Well-resourced and targeted use of the new ASB powers may help to alleviate the impact of ASB, improve community cohesion and the health and wellbeing of those suffering the effects of ASB.
Financial	There are no immediate financial implications arising from the recommendations in this report as the full resource implications are as yet unknown. Income from any Fixed Penalty Notices has to be spent back on services related to the offence.
Legal Implications:	This report relates to a new Act that will remove 19 separate powers and replaces them with 6 new powers. It impacts in many areas of enforcement as outlined in the main body of the report.
Equality/Diversity Implications	None

Sustainability Implications	None
Resource Implications e.g. Staffing / ICT / Assets	None
Risk Management Implications	None
Health & Wellbeing Implications	None
Health and Safety Implications	None

Other Options

The Report sets out the changes made by the Anti-Social Behaviour, Crime and Policing Act 2014.

Consultation

This Report is for information only. Consultation is not required at this stage and any consultation that is required under the Act will take place as and when required

Reasons for Recommendation

This report sets out a summary of the new powers available under the Anti-Social Behaviour, Crime and Policing Act 2014.

The proposed delegation is to the Corporate Director for Transformation and Resources. The delegation will allow the Corporate Director for Transformation and Resources to authorise appropriate officers to utilise the new powers available to the Council.

Key Decision: No

Finance Officer Clearance

Legal Officer Clearance HAK

CORPORATE DIRECTOR'S SIGNATURE

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To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.