

AGENDA ITEM 9

COMMUNITIES & SOCIAL AFFAIRS COMMITTEE

18TH NOVEMBER 2015

REPORT OF THE HEAD OF REGULATORY SERVICES & HEAD OF COMMUNITIES AND NEIGHBOURHOODS

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

1.0 PURPOSE OF REPORT

- 1.1 To inform Members of new powers available under the above Act and to obtain agreement on process and the fee for a fixed penalty notice.

2.0 RECOMMENDATIONS

- 2.1 **That Members note the additional powers brought in under this Act.**
- 2.2 **That Members delegate to the Head of Regulatory Services to authorise officers in Environmental Health to utilise the powers commensurate with their role and responsibilities.**
- 2.3 **That Members delegate to the Head of Communities and Neighbourhoods to authorise officers in that team (ASB Officers, Housing Officers) to utilise the powers commensurate with their role and responsibilities.**
- 2.4 **That Members delegate to the Head of Communities and Neighbourhoods to designate External Agencies Officers (i.e. Regulated Social Landlords dealing with ASB, housing issues) to utilise the powers commensurate with their role and responsibilities, where this be determined to be appropriate.**
- 2.5 **That Members approve the utilisation of Fixed Penalty Notices where an investigation has determined this to be the appropriate course of action.**
- 2.6 **That Members approve the Fixed Penalty Notice charge be set at the maximum £100. This being reduced to £50 if it is paid within 14 days.**

3.0 KEY ISSUES

- 3.1 This Act makes provision about anti-social behaviour, crime and disorder, including provision about recovery of possession of dwelling-houses. It also makes provision amending the Dangerous Dogs Act 1991.
- 3.2 The anti-social behaviour measures in this Act are contained in Parts 1-6.

Part 1 – Injunctions

This is a purely civil injunction, available in the county court for adults and the youth court for 10 to 17 year olds. It will allow a wide range of agencies, including the police, local councils and social landlords to deal quickly with anti-social individuals,

nipping behaviour in the bud before it escalates.

Part 2 – Criminal Behaviour Orders

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 five years in prison for adults. It will demonstrate to the offender and the community the seriousness of the breach.

Part 3 – Dispersal Powers

This 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.

Part 4 – Community Protection Notices

This part is split into three Chapters covering **Community Protection Notices** (see 3.3 below), **Public Spaces Protection Orders** and Closure orders. These new powers will be faster, more effective and available to more agencies to use to tackle a whole range of place-specific anti-social and criminal behaviour. Our existing Dog Control Orders for Dog Fouling will need to be brought into this regime at the designated time.

Part 5 – Recovery of Possession of dwelling-houses: Anti-Social Behaviour grounds

Anti-social behaviour can have a negative impact on neighbourhoods and communities. Social landlords have a key role in tackling anti-social behaviour. Provisions in the Bill introduce a new ground for possession to speed up the process in the most serious cases of anti-social behaviour bringing faster relief to victims and communities.

Part 6 – Local involvement and accountability

The new Community Remedy will give victims of low-level crime and anti-social behaviour a say in the punishment of the offender out of court, whilst the Community Trigger will give victims of persistent anti-social behaviour the right to demand action where they feel that their problems have not been dealt with.

Part 7 – Dangerous Dogs

The Act extends existing legislation to include dogs dangerously out of control in a private place and extends who has power to deal with such cases. There is a Memorandum of Understanding between the Leicestershire Police and Leicestershire district councils (see Appendix A)

- 3.3 **Community Protection Notices (CPNs) are intended** to stop a person or a business continuing with conduct which unacceptably affects the community in the vicinity.

They can be issued by authorised Council Officers; Police Officers; police Community Support Officers (PCSOs) so designated by a Chief Officer of Police; and other persons if designated by the relevant local authority **in circumstances where** there are reasonable grounds to believe the subject's conduct

- is having a detrimental effect on the quality of life of those in the locality, and
- is unreasonable, and
- the effect is of a persistent or continuing nature.

Where the recipient fails to comply with a Community Protection Notice, the local authority may have work carried out to ensure that the failure is remedied. The costs of works undertaken in default by the council can be challenged on the ground that they are excessive.

A failure to comply with a **Community Protection Notice** without reasonable excuse is a summary offence carrying a maximum penalty on conviction of a fine of up to level 4 (individuals) or £20,000 (businesses). Alternatively, an Authorised Person may issue a **Fixed Penalty Notice (FPN)** (max £100) conferring immunity from prosecution if paid within 14 days.

Items used in the commission of an offence on any premises may be seized under a Warrant and may, following conviction, be ordered to be handed-over for destruction or disposal in another way.

- 3.4 Guidance on FPNs suggests that local authorities may offer a reduced fine if payment is received within a limited time. Having consulted with other Leicestershire Authorities, the most common practice is to reduce the fine to £50 if it is paid within 14 days.
- 3.5 **Community Trigger** is introduced in the Act. This is a process which allows members of the community to ask the Community Safety Partnership to review the response to complaints of anti-social behaviour.

The Community Trigger gives victims and communities the right to require action to be taken where an ongoing problem has not been addressed. Its aim is to ensure that no-one suffering the harmful effects of anti-social behaviour and hate incidents falls through the net.

The Community Trigger is a countywide policy and will ensure that members of the public across the County will be treated in the same way with respect to the Trigger.

In summary a trigger can be activated:

- If an individual has complained to the Council, Police or a Registered Housing Provider (social landlord) about three separate incidents in their locality in the last six months.
- If three individuals in the local community have complained separately to the Council, Police or Registered Housing Provider (social landlord) in the last six months about the same incident of anti-social behaviour in the locality.
- If an individual has been a victim of a Hate Crime or Incident in the last six months.

With the structures that are in place for the management of ASB, officers are

confident that the Community Trigger can be effectively managed. Sentinel will be key to ensuring that if a Community Trigger is activated records are held so that a check can be made that the requisite number of complaints has been received and the detail of the action being taken is easily available. This will require all ASB to be recorded on Sentinel.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 Utilising the Act expands the options available for enforcement to deal with matters that are having an impact in the Community.

4.2 Appendix A provides a flow chart which officers of MBC would follow.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 There may be some income arising from service of Fixed Penalty Notices. However the process requires issuing a warning notice prior to the CPN and FPN. It is hoped that recipients will take heed of the warning and modify behaviour prior to enforcement extending into formal notices.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Legal Services have been consulted regarding taking legal action in the event of non-payment of a fixed penalty notice. The evidence that is gathered in the investigation to serve a CPN should be sufficient to be able to take the matter to Court in the event of non-payment, to prosecute for the offence, rather than focus on the Civil matter of a debt.

6.2 This course of action will be pursued by Legal Services.

7.0 COMMUNITY SAFETY

7.1 The ethos of the Act is to improve anti-social behaviour in the community and therefore improve community safety.

8.0 EQUALITIES

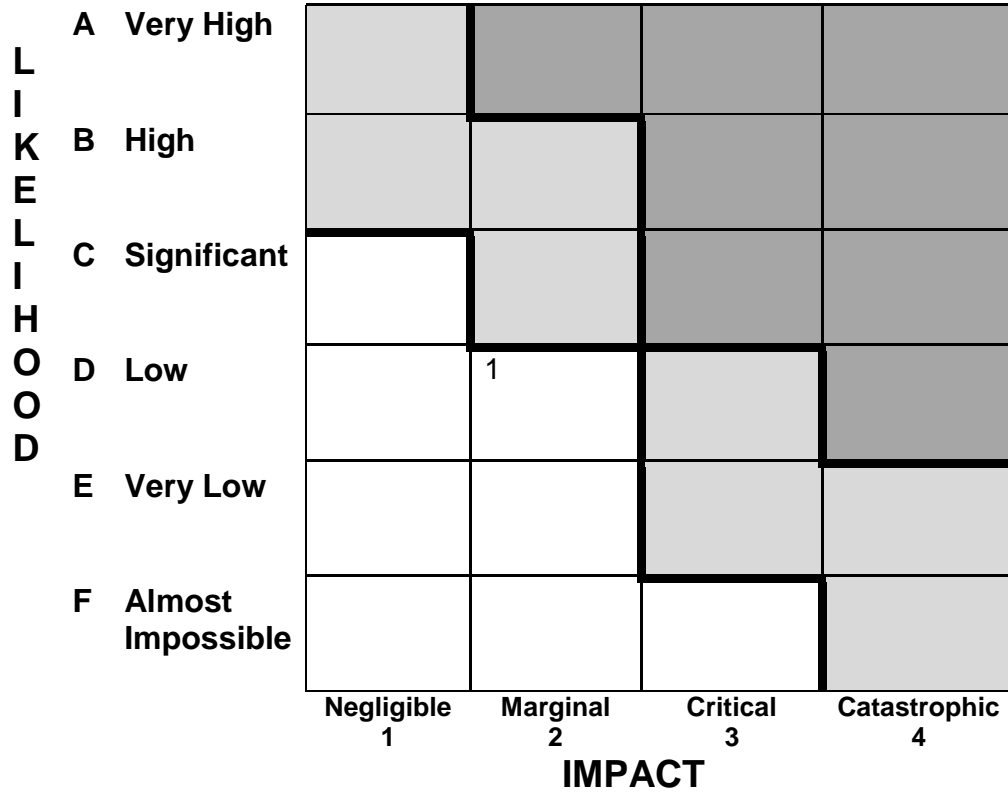
8.1 The new powers will be used to tackle ASB across the District. Vulnerability and equality issues are managed through individual services and the JAG and Vulnerable Adults, which strives to ensure appropriate support and signposting is in place for both victims and perpetrators of ASB.

Hate crime/incident reporting is managed through the JAG and incorporates reports relating to all equality strands.

Under the Community Trigger applications may be rejected if they are thought to be prejudicial, discriminatory, malicious, unreasonable, vexatious or frivolous.

9.0 RISKS

9.1



Risk No	Risk Description
1	Failure to utilise the provisions of the Act reduces the options for dealing with relevant issues arising

10.0 CLIMATE CHANGE

10.1 There are no climate change implications associated with this report.

11.0 CONSULTATION

11.1 Leicestershire District Councils have been consulted on their fee structure for fixed penalty notices and the recommendation at 2.6 above reflects the most common practice.

12.0 WARDS AFFECTED

12.1 The powers could be utilised in all wards.

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Appendices: App A. . Flow Char for CPNs

Background Papers: ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014
Countywide Community Trigger

Reference: X : Committees\CSA\2015.16\181115\HR- ASB C&P Act