

EAST HERTS COUNCIL

COMMUNITY SCRUTINY – 10 MARCH 2015

EXECUTIVE – 2 JUNE 2015

REPORT BY EXECUTIVE MEMBER FOR COMMUNITY SAFETY &
ENVIRONMENT

THE USE AND IMPLEMENTATION OF THE ANTI-SOCIAL
BEHAVIOUR, CRIME AND POLICING ACT 2014 IN EAST HERTS

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- The purpose of the report is to introduce the new powers available to the East Herts Community Safety Partnership to address anti-social behaviour (ASB).
- The report will show how the powers have already been used in East Herts and recommendations on how they could be used in future to ensure best use of resources and outcomes.

**RECOMMENDATIONS FOR COMMUNITY SCRUTINY:
TO RECOMMEND TO THE EXECUTIVE**

That:

(A)	Authority for setting Fixed Penalty Notice (FPN) fee rates to be delegated to the Director of Neighbourhood Services in consultation with the Executive Member for Community Safety and Environment;
(B)	Fixed Penalty Notice income and costs awarded to East Herts District Council at court be reinvested back into and ring-fenced to the ASB service;
(C)	to avoid duplication, records of use of these powers be kept by the ASB officer; and
(D)	East Herts District Council lead on Closure Notices and Orders for Housing Association properties

1.0 Background

1.1 On 20 October 2014 the ASB Crime and Policing Act came into effect. The Act introduced new powers in regards to ASB, dangerous dogs, forced marriage, sexual harm and illegal firearms used by gangs and in organised crime. It also includes changes to improve the provision of services to victims and witnesses.

1.2 Focusing specifically upon ASB the Act seeks to achieve the following:

- To introduce more effective powers for tackling anti-social behaviour, which provide better protection for victims and communities, act as a real deterrent to perpetrators and give victims a say in the way their complaints are dealt with.
- To consolidate existing powers to deal with anti-social behaviour by replacing them with more effective ones.
- To give landlords powers to deal swiftly with the most serious anti-social behaviour committed by their tenants.
- Section 17 of the Crime and Disorder Act places a responsibility upon EHC to consider crime and disorder reduction in everything it does.
- Further, East Herts Council, together with the Police, are the joint lead agencies for the East Herts Community Safety Partnership (CSP), required under the above legislation to work together to reduce crime and disorder. The Chief Executive and Director of Customer and Community Services is the chairman of the board.

2.0 Report

2.1 The ASB Crime and Policing Act introduced six new powers to address ASB, replacing the previous 19 that had been available. Consultation had shown that several of the previous powers were not being used and agencies reported them to be ineffective and slow to implement. East Herts Community Safety Partnership has typically made use of Anti-social Behaviour Orders (ASBOs), Section 30 Dispersal Orders and Designated Public Place Orders.

2.2 The six new powers are as follows:

- Civil Injunction
- Criminal Behaviour Order
- Community Protection Notice
- Public Spaces Protection Order
- Closure Notice / Order
- Dispersal Powers

The local authority has the power to use all of the above apart from the dispersal power, which is solely for Police use (although it is recommended that Police consult with a local authority before using them).

2.3. Community Trigger and Community Remedy.

In addition to the enforcement powers, two measures were introduced in regards to supporting those who have been victims of ASB; namely the Community Trigger and Community Remedy.

2.4 Civil Injunction and Criminal Behaviour Order

The Civil Injunction and Criminal Behaviour Order (CBO) replace ASBOs and Anti-social Behaviour Injunctions (ASBIs). The Civil Injunction is currently not available for agencies to use at present; this part of the Act has been delayed due to complications in regards to Legal Aid. A CBO evidence package has been compiled for a female youth and the Crown Prosecution Service are leading on this.

2.5 Since 2004 over 50 ASBOs were issued for those who lived in East Herts or had conditions that related to East Herts. Three of these have been obtained by East Herts Council, the rest were secured by Herts Police. With support from our ASB officers and partner agencies the police were relied upon to take the lead in prosecutions and obtaining orders, we no longer have the luxury of expecting Police to lead on almost every case.

2.6 Community Protection Notices

Community Protection Notices (CPN) can, in some circumstances, be used to deal with anti-social behaviour in relation to environmental crime offences, such as graffiti and dropping litter. The CPN is intended to deal with persistent problems and after a formal warning has been issued to the person or body. There are a number of East Herts Council teams

who will be able to make use of CPNs; such as Community Safety, Environmental Health, Environmental Services and Planning Enforcement. A report on the implications of the new legislation for the Council's Environmental Crime Policy will be brought to Environmental Scrutiny Committee later this year.

- 2.7 At present, one CPN warning letter has been issued by East Herts Council. Consideration needs to be given as to how these are recorded in order to avoid duplication of work, and to maximise their use as one notice could span over more than one departmental issue. A central recording system should be considered to avoid duplication and ensure consistency.
- 2.8 The ASB and Projects Officer at East Herts Council has been working with Herts County Council and the nine other local authorities in drawing up templates for both the CPN warning letter and Notice due to be ready next month.
- 2.9 Under the Act, Herts Police have the power to issue CPNs. However, it is thought that no warning letters or notices would be issued without consultation with East Herts Council first.
- 2.10 Breach of a CPN can lead to a Fixed Penalty Notice (FPN). Any revenue from an FPN for a breach of a CPN comes to the local authority irrespective of which agency issued the Notice. The use of CPNs in the district could therefore generate income for East Herts Council. Revenue from the FPNs could be ring fenced to support other enforcement action; such as a Civil Injunction.

2.11 Public Spaces Protection Order

A Public Spaces Protection Order (PSPO) replaces Designated Public Place Order (DPPO), or more commonly known as alcohol control zones. A PSPO can include restrictions in regards to the consumption of alcohol it is aimed to deal with nuisance that has a detrimental effect on the local community, so can include restrictions in regards to other behaviours, such as keeping dogs on leads and busking. Unlike DPPOs, the conditions of a PSPO can be limited to certain days and times rather than blanket use.

- 2.12 A PSPO can only be applied for by the local authority. However the need and evidence for an Order is likely to come as a result from working with partner agencies, and discussion at established meetings such as the Joint Action Group (JAG) and the Anti-social Behaviour Action Group (ASBAG).

- 2.13 Before making the Order, East Herts Council would need to consult with Police, PCC and other interested parties (such as the local town or parish council). The support from Herts Police is crucial as they have the power to enforce the PSPO should an individual breach one of the restrictions.
- 2.14 There are currently no PSPOs currently in East Herts. There is only one PSPO in Hertfordshire, that Watford Borough Council applied for in December 2014. The existing five DPPOs in East Herts remain in place until 2019. They will either need to be converted to PSPOs prior to this or they will no longer be enforceable.
- 2.15 As noted in 2.7, an East Herts Council internal recording mechanism would assist in highlighting possible uses of PSPOs in the district. This is further explored in point 2.30 in this report.
- 2.16 Closure Notices and Orders
- Closure Notices and Orders replace Crack House and Premises Closure Orders. The new powers can be used on any premises; tenure irrelevant and also include licenses premises. They can be applied for by local authorities and Police only, and should the Order be granted can close a property for three months (with a further three month extension if it felt necessary).
- 2.17 This power has already been exercised twice in East Herts, for two separate properties within the town of Sawbridgeworth. One was for a Riversmead Housing Association property, and another on a privately owned dwelling. Both applications were made by Herts Police; however East Herts Council had evidence to support both applications and provided supporting statements.
- 2.18 Findings from the two successful Closure Notices and Orders show that the process is swift and not costly. East Herts Community Safety Partnership is fortunate to have close working with partners, making use of a multi-agency case management system, SafetyNet, which significantly aided the applications as a lot of the required evidence was readily available. Should East Herts Council have made the applications they would have also been able to access the same SafetyNet evidence which would help to minimise the work involved. It should further be noted that the Closure of the properties will have led to significant savings in terms of officer time or other enforcement action to address the

ASB (such as Environmental Health). Should there be a more complex case then the Herts and Essex Legal Partnership resource could be utilised.

- 2.19 Housing Associations are not able to apply for Closure Orders, therefore will need to seek assistance from local authorities or Police should they wish to pursue this course of action.
- 2.20 The decision to apply for the Closure Orders was made through the ASBAG meetings, which is chaired by the East Herts Council ASB & Projects Officer.
- 2.21 The Closure powers have also been used in other local areas such as Dacorum and Three Rivers. In these areas it has been the local authority that has led on them successfully. In Three Rivers they have made a local agreement that the Council will apply for any cases that involve a Housing Association property, and police deal with privately owned properties. In Dacorum, at present the Council are leading on all Closure orders. They have advised the main cost has been officer time. The Court costs have not exceeded £200.
- 2.22 Consideration should be given to East Herts agreeing to a similar procedure as Three Rivers, and East Herts Council taking the lead on any Housing Association property cases. Should the Order be granted the Housing Association are then able to apply for outright possession of the property. Such an agreement would ensure that East Herts Council is making effective use of the new powers and playing an equal role in terms of partnership action, rather than relying upon Herts Police. The relevant Housing Association could be asked to contribute towards any Court costs incurred, however this would need to be decided on a case by case basis to ensure that it is appropriate. For example in some cases closing a Housing Association property may have significant cost savings for East Herts Council if other investigations are taking place at the address.
- 2.23 In all cases where the Closure Orders have been used the feedback from those who had been victims of the ASB has been significant, all expressing their relief in the three months respite that will follow. In both the East Herts Closure Orders it has allowed for other interventions to be undertaken to address the case in the long term.

- 2.24 The new Dispersal Powers can only be used by Police, and authorised by the rank of Inspector or above. These powers can be of assistance for East Herts Council when looking at issues related to the night time economy or persistent ASB. At the time of writing, information on their use in East Herts is not available.
- 2.25 The Community Remedy is a document produced by the Police and Crime Commissioner (PCC) that gives the victims a say in out of court punishment for low level crime and ASB. The document was published in October 2014 by the PCC and applies to Hertfordshire. At the time of writing no example of use are available.
- 2.26 East Herts introduced the Community Trigger in June 2014, ahead of the legislation. The trigger allows residents to request a case review if they have reported three or more incidents of ASB within six months (or if three people have reported similar in six months). The process developed and agreed in East Herts was adopted by several other local authorities.
- 2.27 There have been three Community Triggers in East Herts. Following their receipt agencies were able to identify some areas in the process that needed some amendment. For example the public expectation was that should they have met the trigger criteria additional powers were available to deal with the issue. As a result the leaflets and webpages have been changed.
- 2.28 Liaison with other district and borough councils shows that the powers are being used and best practice examples are being shared.
- 2.29 The recommendations are that East Herts Council looks to further mainstream Community Safety (as required under Section 17 of the Crime and Disorder Act 1998) by fully utilising the powers and establishing internal working processes to ensure this.
- 2.30 It is intended to set up an internal 'Enforcement' forum where representatives from the aforementioned sections, as well as Legal and other interested teams meet twice a year, as well as virtually, to share learning and experiences and horizon scan emerging issues. Such a meeting also supports the "Here to Help" agenda by working with colleagues in different departments and the sharing of resources.

The ASB officer will retain records in one place for the whole council to avoid duplication, using the new case management system 'Uniform'.

This officer's role forms the bridge between EHC staff and partner agencies to ensure an integrated response.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

- Presentation by Julie Pomfrett, ASB & Projects Officer
- Home Office Statutory Guidance – ASB Crime & Policing Act
<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>
- Use of powers by other local authorities

Contact Member: Councillor Malcolm Alexander
Malcolm.alexander@eastherts.gov.uk

Contact Officer: Brian Simmonds- Head of Community Safety & Licensing
01992 531498
Brian.simmonds@eastherts.gov.uk

Report Author: Julie Pomfrett – ASB & Projects Officer
Julie.promfrett@eastherts.gov.uk