

REPORT TO THE COMMUNITY LEADERSHIP SCRUTINY PANEL

14 APRIL 2016

Status: Discussion
Title: Anti-Social Behaviour – New Powers
Originator: Tom Day, Community Partnerships Manager
Where from: Scrutiny Workplan
Where to next: Subject to Recommendation(s)

Objective: To examine the Council's use of powers to tackle anti-social behaviour and any resource implications following on from the new powers introduced as part of the Anti-Social Behaviour, Police and Crime Act 2014.

1. Outcome sought from Panel

- 1.1 For the Panel, having read this report and heard experiences and case studies from Officers in attendance, to consider the Council's response to anti-social behaviour (ASB) and use of available powers.

In attendance will be;

Ian Bartlett, Environment Team Leader (Regulatory Services)

Christine Zacharia, Senior Planning Enforcement Officer (Regulatory Services)

Tom Day, Community Partnerships Manager (Community Partnerships)

Sarah Pickering, Senior Community Safety Officer (Community Partnerships)

John Kemp, Senior Cleansing Officer (Contracted Services)

2. Background

- 2.1 Anti-Social Behaviour is defined as "Behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as the person". (Anti-Social Behaviour Act 2003 & Police Reform and Social Responsibility Act 2011).

- 2.2 Anti-social behavior can therefore take on many forms, some can be legally defined as crimes, others may not be, but they may still have the same kind of negative effect. Anti-social behaviour can include verbal abuse or threatening behavior, vandalism, graffiti, noise, persistent littering, drunkenness and aggressive dogs.

- 2.3 Harborough District Council is committed to tackling anti-social behaviour as set out in its Anti-Social Behaviour Policy 2014 (Appendix A). In taking action the Council will work alone and in partnership with the Police and other agencies and respond in a measured and appropriate manner in order to address the concerns of residents.
- 2.4 As a Local Authority the Council has a number of strategies and powers available to tackle anti-social behaviour. These include informal action, such as advice and warning letters stretching through to strong powers through legislation, such as the Environmental Protection Act 1990 powers to issue Fixed Penalty Notices, Abatement Notices, large fines and even imprisonment in some cases.
- 2.5 Separate to the Environmental legislation many powers related specifically to anti-social behaviour were recently reformed through the ASB, Crime and Policing Act 2014. The Act consolidates the total number of powers available to Police, Councils and Registered Social Landlords from 19 to six, which has simplified the system and made it easier for agencies to tackle antisocial behaviour, as well as being easier for the public.
- 2.6 A summary of the new powers set out in the legislation can be found at Appendix D. These include;
- Community Protection Notices replace Litter Clearing Notices, Street Litter Clearing Notices and Graffiti/Defacement Removal Notices
 - Public Spaces Protection Orders (PSPOs) replace Designated Public Place Orders, Gating Orders and Dog Control Orders
 - Introducing a Community Trigger to allow victims the right to demand case reviews where the threshold is met.
- 2.7 A year on from the implementation of this new legislation the purpose of this meeting is to examine how the Council has responded and identify any resource implications going forward.

3 Points for discussion

Clear Policy and Procedures

- 3.1 To be able to use any power the Council must have a clear policy and procedures in place. Following the introduction of the new legislation the Council updated its general Anti-Social Behaviour Policy to include the new and existing powers available. The new policy and scheme of delegations was agreed by the Executive on 3 November 2014.
- 3.2 All relevant officers have received training on the new powers and senior officers from Community Safety, Regulatory Services and Contracted Services meet monthly to review processes, share best practice and ensure a consistent approach is taken by the Council across its service areas.

Number of reports of different types of antisocial behavior

3.3 As set out in the table below, in terms of numbers of reports for different types of anti-social behaviour the overall trend has been a decline, except for fly-tipping, which has seen a significant increase.

	2015	2014	Change
Nuisance behavior (Community Safety Team)	82	105	-28%
Noise (Regulatory Services)	156 (94 general nuisance, 47 dog barking, 15 Bruntingthorpe Proving Ground)	241 (125 general nuisance, 55 dog barking, 61 Bruntingthorpe Proving Ground)	-35%
Fly tipping (Contracted Services)	323	215	50.23%

3.4 The table below provides the percentage of fly-tipping incidents by ward from March to November 2014 & 2015.

Ward	% March–Nov 2015	% March–Nov 2014	% Change
Thurnby & Houghton	13%	18%	-5%
Glen	8%	10%	-2%
Ullesthorpe	7%	7%	0%
Lubenham	6%	6%	0%
Peatling	6%	6%	0%
Kibworth	6%	6%	0%
Misterton	6%	7%	-1%
Mk Harborough Arden	5%	6%	-1%
Dunton	5%	6%	-1%
Fleckney	4%	2%	+2%
Other 15 Ward Spread	34%	26%	+8%

3.5 The data demonstrates that the fly tipping issue is widespread across the District and not focussed on specific areas. Although there are two wards with over 20% of the fly tipping found in 2015 (Thurnby & Houghton and Glen), these are adjacent to heavily populated areas which are outside the District. In general, the hot spots remain unchanged from year to year and this should enable a more targeted approach to be taken concentrating on these high risk areas.

3.6 Summary of the Councils use of available powers

Power	Number of uses since January 2015
Advisory Letters	59
Warning Letters	11
Anti-Social Behaviour Contract	1
Community Protection Notice	2
Fixed Penalty Notice	0
Injunction	0
Criminal Behaviour Order	0
Closure Order	0
Public Space Protection Order	1 (Draft)
Community Trigger	0

3.7 The new ASB powers have streamlined the enforcement process and lowered the burden of proof needed to instigate these powers, often to the civil level- 'on the balance of probability' as opposed to the criminal level- 'beyond reasonable doubt'. This makes it easier to prove that the test has been met i.e. that 'behaviour has to have detrimental effect on the quality of life of those in the locality; be persistent and unreasonable'. This has enabled Council services to take swift action in cases where anti-social behaviour can be evidenced at this level, but not at a higher/ more specific level required for more traditional powers e.g. an Abatement Notice. To serve an Abatement Notice under statutory nuisance, the Council must be of the opinion that either substantial personal discomfort or a health effect must exist.

3.8 However, there are other considerations when determining the best way to address anti-social behaviour. For example some reports of anti-social behaviour concern 'one off' incidents that are difficult to then investigate e.g. a rowdy group of people outside a house one evening. Further, to use the new ASB powers there needs to be evidence that the behaviour is of a 'persistent' nature. Therefore for 'one-off' incidents such as fly-tipping it may be that Environmental legislation offers a better solution in some cases.

3.9 There are also a number of informal steps that are taken prior to any formal action. These include advisory letters, warning letters, Anti-Social Behavior Contracts and are set out in the Anti-Social Behaviour Policy and are effective in the vast majority of cases to tackle the issue. Therefore the use of formal powers has been minimal but is kept under review.

Neighbour Disputes.

3.10 Not all neighbour disputes should be dealt with as anti-social behaviour. Depending on the circumstances of a complaint, a complainant may be advised to seek their own legal advice in relation to their complaint.

Cessation of irresolvable cases.

3.11 The Council contributed towards the development of a multi-agency approach to closing irresolvable cases (Appendix B). This guide is intended to provide a structure for the closure of long standing cases of anti-social behaviour and disputes where the expectations of the complainant outweigh the ability of agencies

to find a solution; or where complainants are unwilling to follow advice and guidance offered by agencies in finding a resolution.

Community Trigger

- 3.12 To date there have been no Community Triggers (case reviews). The process for a resident to initiate a Community Trigger is set out in Appendix C. There are strong working relationships between the Council, Police, Registered Providers and regular Joint Action Group meetings are held to ensure that all high risk and persistent cases are tackled. In addition the Council and Police share the same system that records anti-social behaviour complaints which means victims do not need to report nuisance behaviour to both the Police and Council. Under the Community Trigger applications may be rejected if they are thought to be prejudicial, discriminatory, malicious, unreasonable, vexatious or frivolous.

Customer Satisfaction

- 3.13 In assessing the Council's response to anti-social behavior Members should finally consider the feedback given from residents who contacted the Council. Following the introduction of the new powers the Council began customer callbacks to understand and improve our customer responsiveness. The table below summarises the feedback from residents who reported noise and nuisance behavior between April 2015 and December 2015.

It was easy to report to the Council	84.50%
Staff understood concern	76.10%
Satisfied with the way the Council dealt with the complaint	64.50%
The Council able to resolve the issue	31%
If we were not able to resolve the issue, we clearly explain why	59%
Sample size	62

4 Equality Impact Assessment Implications/Outcomes

- 4.1 The Council monitors equality through its customer satisfaction survey. This captures key information which is considered at the Corporate Officer meetings and within service areas to ensure the Council is accessible for all residents.
- 4.2 The Council has clear safeguarding policies and processes in place to ensure concerns are reported appropriately. The Community Safety Team are Designated Safeguarding Officers.
- 4.3 The Council works with partners to identify vulnerable residents who are at an increased risk of harm. To support this work the Council risk assesses 100% of victims that report nuisance behaviour (dealt with by the Community Safety Team), so as to identify any underlying vulnerabilities e.g. mental ill health. Council Officers are looking at ways to roll this approach out across other service areas.
- 4.4 Hate crime/incident reporting and PREVENT (which raises awareness of extremism) is managed through the Community Safety Team and incorporates reports relating to all equality strands.

4.5 At the wider partnership level, high risk vulnerability, safeguarding and equality issues are managed through the Joint Action Group, which meets monthly and strives to ensure appropriate support and signposting is in place for both victims and perpetrators.

5 Impact on Communities

5.1 Anti-social behaviour (ASB) can impact on communities in many ways and take on many forms, some can be legally defined as crimes, others may not be, but they may still have the same kind of negative effect. Anti-social behaviour can include verbal abuse or threatening behavior, vandalism, graffiti, noise, persistent littering, drunkenness.

6 Legal Issues

6.1 All work to tackle anti-social behaviour is carried out in line with the relevant legislation and guidance, some of which is set out in this report.

7 Resource Issues

7.1 To date the use of antisocial behaviour powers has been within existing service budgets. This includes;

- An estimated £1,000 for training and external advice. Ongoing training and support costs for Officers, particularly in Regulatory Services, Community Safety and Contracted Services should be identified within service budgets/ the corporate training budget.
- £5,000 for new signage if draft PSPO areas agreed.
- Enforcement of dog controls within the proposed PSPO areas will be carried out as part of the Dog Warden contract.
- Enforcement of drinking restrictions within the proposed PSPO areas will be carried out by the Police. It should be noted that the Police will not issue Fixed Penalty Notices but will arrest individuals who fail to surrender alcohol when requested by a Police Officer or PCSO.
- Increased investigation and enforcement against fly-tipping will be carried out by Contracted Services, within existing budgets. This has included investment in a covert camera at a cost of £3,000.

7.2 Potential future costs include;

- Any further increase in resources for investigation
- Legal costs for enforcement activity in particular for prosecutions of breaches where Fixed Penalty Notices are not paid.

7.3 Resources will be kept under regular review, considered on an annual basis as part of budget setting and reported to the Executive if urgent issues arise.

8 Community Safety Implications

8.1 The Community Safety implications are set out in the body of the report.

9 Carbon Management Implications

9.1 None arising from this report

10 Risk Management Implications

10.1 Raised expectations of the public regarding new ASB powers - Ensure officers are trained and competent in the application of the new powers and regularly monitor the demand for and use of resources to implement the new powers and report to the Executive as required.

10.2 ASB case management and management of vulnerability is undertaken differently in different teams - Agree to the use of Sentinel as the main case management system for defined areas of ASB and ensure vulnerability is managed consistently across teams through shared procedures and approaches.

11 Consultation

11.1 The Community Trigger and Community Remedy has been subject to countywide consultation through Leicestershire County Council and the Office of the Police and Crime Commissioner.

11.2 The review of the Incremental Approach to include new powers to manage ASB has been subject to countywide consultation through Leicestershire County Council.

11.3 The ASB Policy for Harborough District Council adopts the Incremental Approach and has been discussed with the Portfolio Holder for Regulatory and Safety.

12 Background Papers

Anti-Social Behaviour Policy on 3 November 2014

Previous report(s):

Information Issued Under Sensitive Issue Procedure: No

Appendix A Antisocial Behaviour Policy 2014

Appendix B Cessation Guidance 2013

Appendix C Community Trigger Process 2014

Appendix D Summary of New Powers