

Cabinet – 28 October 2015

Anti-social Behaviour, Crime and Policing Act 2014 – Discharge of Functions

Portfolio: Councillor Adrian Andrew - Economy, Infrastructure and Development

Related portfolios: None

Service: Community Safety Services

Wards: All

Key decision: No

Forward plan: No

1. Summary

- 1.1 The Anti-social Behaviour, Crime and Policing Act 2014 refreshed the powers available to the police, local authorities and others to tackle anti-social behaviour.
- 1.2 The purpose of this report is to facilitate the lawful exercise of the powers contained in the Act by this Authority. The new Act is classified as an “executive function” by virtue of s.9D of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities)(England) Regulations 2000. It therefore falls to Cabinet to arrange for the discharge of the functions under the Act.

2. Recommendations

- 2.1 That Cabinet resolves that the Executive Director, Change and Governance is to discharge the functions of the Council under the Anti-social Behaviour, Crime and Policing Act 2014 including, but not limited to, exercising all strategic, operational and management powers and duties of the Council under the Act.
- 2.2 That Cabinet approve the Executive Director, Change and Governance to authorise officers to discharge on his behalf the functions Cabinet has resolved for him to discharge and that the constitution be amended accordingly.

3. Report detail

- 3.1 The Anti-social Behaviour, Crime and Policing Act 2014 refreshed the powers available to the police, local authorities and others to tackle anti-social behaviour. Powers in the Act were brought into force in a staged process with the majority of the powers coming into in force on 20 October 2014.

- 3.2 In order for the Council to discharge its functions under the Act a scheme of delegation should be in place. Cabinet has the responsibility to arrange for the discharge of functions under the Act and in October 2014 arranged for the discharge of these to the Executive Director (Neighbourhood Services). This position no longer exists and so it is necessary that Cabinet re-arrange the discharge of the functions under the Act and it is suggested that the most appropriate arrangement for discharge is to the Executive Director (Change and Governance).
- 3.3 This is purely a technical legal issue to ensure the correct legal framework is in place. It is not a statement of how the powers will be used other than that they will be within the remit of the Executive Director (Change and Governance).
- 3.4 The Act contains a broad range of powers. Parts 1 to 6 relate specifically to anti-social behaviour (ASB) and introduce new powers. The Act replaced 19 existing powers with 6 faster more effective ones and a number of these can be utilised by the Council. These are:
1. The Civil Injunction
 2. The Criminal Behaviour Order
 3. Community Protection Notice
 4. Public Space Protection Order
 5. Closure Power

3.5 Civil Injunction

The Civil Injunction came into force in March 2015. It is a civil power which can be applied to deal with anti-social individuals and is intended to quickly prevent individuals from engaging in anti-social behaviour before the issues escalate. The Council is one of a number of organisations able to apply to the County Court or Youth Court for an injunction. The injunction can include prohibitions forbidding proscribed behaviour and, where appropriate, positive requirements.

3.6 The Criminal Behaviour Order

The Criminal Behaviour Order (CBO) is available on the conviction of an individual for a criminal offence by a criminal court. The Council (and others including the police) can apply for a CBO when it prosecutes the offender. The Criminal Behaviour Order can contain prohibitions and positive requirements and is the criminal equivalent of the Civil Injunction.

3.7 Community Protection Notice

The Community Protection Notice (CPN) is intended to deal with particular ongoing problems or nuisances which have a negative impact on the community's quality of life by targeting those responsible. It can be used to stop a person aged 16 or over, a business or organisation from committing anti-social behaviour which spoils the community's quality of life. The behaviour has to be persistent and unreasonable. However the notice does not discharge the council from the duty to issue an abatement notice where that behaviour constitutes a statutory nuisance. The notice, after an initial written warning, can be issued by

both council and police officers. The act also enables the council after consideration to authorise social landlords to issue a CPN.

3.8 Public Spaces Protection Order

Public Spaces Protection Orders (PSPO's) are designed to stop individuals or groups from committing anti-social behaviour in a public space and to ensure that law abiding individuals can enjoy those spaces. Councils are able to issue Public Spaces Protection Orders after consultation with the Police, the Police and Crime Commissioner and other relevant bodies including community representatives it deems appropriate. An order can include a number of requirements and restrictions that can be targeted at specific people or apply at specific times or in certain circumstances. PSPO's can be used to regulate certain activities such as drinking alcohol in addition to placing requirements on individuals undertaking certain activities such as ensuring that dog walkers keep their pets on a lead. The PSPO can be challenged in the High Court within six weeks of it being made.

3.9 Closure Power

This power can be used by either the Council or Police. It is intended to be a flexible and quick means to protect victims and communities. It allows the Council to quickly close premises that are causing nuisance or disorder. The process involves the Council initially issuing a Closure Notice and thereafter applying to the court for a Closure Order.

4. Council priorities

The use of the powers introduced by the act will support the Council to meet a number of its priorities, including Creating Safe, Sustainable and Inclusive Communities and Improving Health and Well Being, including independence for older people and the protection of vulnerable people.

5. Risk management

An appropriate scheme of delegations will ensure the powers available under the act are used appropriately and that there exists a clear audit trail identifying which officers are able to utilise the powers and the authorisation process for them to do so.

6. Financial implications

There may be costs incurred when obtaining and then enforcing orders made under the legislation. If the council chooses to authorise social landlords to issue Community Protection Notices, it will still retain the responsibility to prosecute/enforce any breaches. Civil Courts charge a fee of £280 to list a matter before the court. There may also be some scenarios where an additional hearing fee of £545 could become payable - likely to be the exception rather than the rule. This is unlike Criminal Courts where there is no charge. In both courts

the Council is liable for costs if it loses a case; every effort is taken to ensure the evidence placed before the court is strong. Any costs would need to be met by the service area taking the action. This can be reviewed if required as the new tools and powers are embedded into working practices.

7. Legal implications

The functions under the Anti-social Behaviour, Crime and Policing Act 2014 will have a lawful “chain of delegation”.

8. Property implications

None arising from this report.

9. Health and wellbeing implications

None arising from this report.

10. Staffing implications

None arising from this report.

11. Equality implications

None arising from this report.

12. Consultation

This is a legal operational requirement which the Council must effect.

Background papers

None

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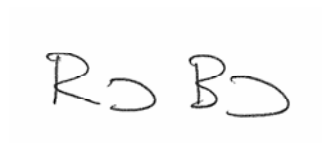
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Handwritten signature of Rory Borealis in black ink, consisting of the letters 'R' and 'B' followed by a stylized flourish.

Rory Borealis
Executive Director

20 October 2015

Handwritten signature of Councillor A. Andrew in blue ink, featuring a stylized 'A' and 'A' followed by a flourish.

Councillor A. Andrew
Portfolio holder, Economy, Infrastructure and
Development

20 October 2015