

Anti-social Behaviour, Crime and Policing Act 2014

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Purpose of the Report

To update members on the anti-social behaviour (ASB) tools being developed in South Somerset through the 'Anti-social Behaviour, Crime and Policing Act 2014'.

Public Interest

The District Council, Police and other agencies are given powers, through legislation, to help protect individuals and communities from Anti-social behaviour and crime that occurs in our area. Those powers are changing through new legislation introduced in October 2014. This report gives an overview of the specific legislation changes that officers are now working with. Although South Somerset continues to be one of the recognised safer places to live in the country, these new powers will help maintain the environment, protect victims and deal with perpetrators.

Recommendation:

That the report be discussed and noted.

Background

The tools identified in the 'Anti-social Behaviour, Crime and Policing Act 2014' seeks to streamline and replace the existing framework for tackling ASB and environmental nuisance. It replaces all the existing ASB tools.

SSDC maintains an ASB report monitoring system that records ASB reported to the organisation. A full list of the areas covered can be found in the table (Appendix A) that also shows the number of incidents reported in the first half of this year.

You can see from the second quarter's figures that 174 (34%) of ASB reports are dog related, 80 (16%) are about noise and 74 (15%) are about litter. Together these three areas account for nearly 65% of the total reports received. The overall total, 511, for this time period is the same as it was last year.

Although all the tools and powers to deal with ASB issues are changing it is envisaged that this system will continue to record incidents as it is the tools that are changing and not the identified classifications as shown in the table.

New Tools and Powers

All existing tools and powers ceased from being available in October 2014 with all existing orders terminating, no later than, March 2017

There are 7 new powers that replace the previous 19. There are two new initiatives that are designed to improve services to victims.

It is an easy way to categorise the new tools in boxes to show direct replacement from the old ones (Appendix B) but in practice there can be crossover depending on the agency using them and what they wish to achieve. As an example the Public Spaces Protection Order can be seen as a direct replacement of the Designated Public Place Order (“no drinking zone”) but it may be that the Dispersal Power is better suited in certain geographical areas or areas that experience a short term or irregular problem.

The Safer Somerset Partnership has taken a lead across the county to look at the implementation of these tools and powers. As an example a six month pilot of the Community Trigger was run in the Mendip District Council area from February 2014. This was designed to test the theory and give the other districts some knowledge and experience in helping to develop a similar service. The Somerset wide Trigger is based on the trial area which will ensure a common level of service. A series of workshops were run to look at each of the tools and see how they can best fit within the existing resources, delivery structures and help identify opportunities.

Partnership Working

The new powers are seen as a series of tools to help agencies deal with problems quickly but are not expected to be used in total isolation. The new tools are designed to be flexible and will be complimented by working in partnership, sharing information and using early and informal interventions. The statutory guidance gives a clear steer for agencies to continue to work in partnership and look for more effective ways of working.

Within the partnership environment there is responsibilities placed on individual agencies. Where there is a lead clearly identified it will be for that agency to take the development forward gaining support from others as required. Where this is not the case there will be a shared responsibility or a need to develop a multi-agency focus.

Partners are currently looking at the existing partnership structures to ascertain if they will continue to be fit for purpose and identify gaps in provision. This includes the existing ASB steering group, and case conferencing.

There will be a need to share even more information if we are seen to be acting in the best interest of the victim and minimise duplication. This could result in closer local working with our partners and regular information exchange about geographical areas and individual victims and perpetrators.

It is understood that the existing Avon and Somerset, Tier One, Information Sharing Protocol will allow partners to share this information if supported by local confidentiality agreements.

SSDC Required Action

The detail below helps identify what is being delivered and required from South Somerset District Council and attempts to identify possible implications within service delivery areas.

Community Trigger

The Community Trigger gives victims and communities the right to a review of actions taken, where there is an ongoing problem of reported anti-social behaviour, but feel has not been resolved appropriately.

Anyone can request a Community Trigger. If the following criteria is met the trigger will be actioned:

- Victim has reported a minimum of 3 incidents of ASB within a six month period.
- The victim feels that at least one of these incidents has not been dealt with adequately.
- None of the incidents are on-going.
- The victim has not filed a complaint against any of the agencies.
- At least one of the agencies feels that either their own or another partner's response was inadequate.

Any individual or group from the same community can ask for a trigger to be actioned. A call to the Avon and Somerset Police non-emergency number (101) or online. The web link shown below is the portal to request a Trigger and gives further information for those wishing to apply:

<https://www.avonandsomerset.police.uk/advice/neighbourhood-community/anti-social-behaviour/anti-social-behaviour-community-trigger/>

When a Community Trigger has been requested, the detail is checked to ensure it meets the criteria. Agencies dealing with anti-social behaviour in Somerset will review the case. If it is found that more could be done a plan of action will be put in place.

The Safer Somerset Partnership facilitated a pilot of the Community Trigger in the Mendip District Council area from January 2014. This helped to refine the process and help identify what was required. The lessons learned from this trial have helped to shape the process and methodology now being used.

In the six months of the trial Mendip dealt with 7 applications of which 6 met the criteria. 3 of which all related to the same incidents in the same area so treated as one trigger. This led to 4 completed reviews.

Although many of the tools have been delayed, the start date announced by government being Monday 20 October 2014, until the New Year due to training requirements for police and Court staff, the Community trigger did go live on the 20th October as planned. Avon and Somerset Constabulary had information on their website from that date.

Elected members may receive enquiries from members of the public.

Agencies working to tackle anti-social behaviour across the Avon and Somerset Force area have agreed to carry out a formal launch of the Community Trigger in the New Year. This will give time for all the agencies in the various Local Authority areas across the region time to embed the Community Trigger process into their services and help manage community expectations.

Community Safety has the overview and maintains the single point of contact for the reviews. Assistance with individual case reviews will be sought from relevant agencies and internal services as required including, Environmental Protection, Housing, Legal, Area Teams and others as required.

There have been no requests at the time of writing.

Community Remedy

This gives victims a say in the out-of-court punishment of perpetrators for the low level crime and ASB.

Police will use this (Restorative Justice) to deliver a conclusion that a victim has agreed to. There is no mention in the guidance about independent panels other than as an informal

intervention. The PCC is responsible for setting the criteria, developing the documentation for the Police and possibly others to use.

SSDC Community Safety will Support Police if requested to do so.

Civil Injunction

Can be used to stop or prevent persons engaging in ASB

An application can be made to the County Court from a Local Authority, Social Landlords, Police, British Transport Police, Environment Agency and NHS Protect. It is for each agency to decide on how this tool is used.

Criminal Behaviour Orders

Are orders issued by the court at the request of the prosecutor on conviction of a crime to help stop further crime or related ASB.

The Criminal Prosecution Service is taking the lead in support from Police.

Unfortunately this is one of the tools that will not be available until March as the Courts are yet to receive their official guidance.

Community Protection Notice/Order

The CPN is an enforcement tool that can be used by SSDC or the Police to deal with problems of reported anti-social behaviour. It is a statutory notice that can be served by enforcement agencies with requirements to stop things, do things or take reasonable steps to avoid further anti-social behaviour. A Community Protection Notice can be served on any person aged 16 or over, or a body, including a business.

The use of a CPN is a discretionary power. To issue a notice, the enforcing agency must be satisfied that the following tests are met and the behaviour in question has to be either:

- Having a detrimental effect on the quality of life of those in the locality
- Persistent or continuing in nature
- Unreasonable.

Before issuing a notice the relevant agency must first issue a written warning stating what the alleged anti-social behaviour is and giving a reasonable time for it to stop.

Discussions are still ongoing with other local authorities in the region, and with the Police regarding the circumstances in which these notices may be used. The powers are most likely to be used by Environmental Health to deal with matters that are currently already reported to them, but for which existing legislative controls are not either appropriate or proportionate. For example:

- inert rubbish in garden
- low level noise (not sufficient to be a statutory nuisance)
- bonfires
- litter
- persistent straying dogs

It is possible for the local authority to delegate the power to issue CPNs to social landlords, although this part of the legislation is not yet enabled. This option is also still under discussion.

If a CPN is not complied with SSDC and the Police have the following enforcement options:

- Issue a Fixed Penalty Notice (FPN). Maximum penalty £100. If this is accepted and paid then this discharges the liability for prosecution
- Bring a prosecution (except where an FPN is issued and paid)
- Carry out remedial works (on land open to the air). This option is not available to Police

Officers have attended workshops organised by the Safer Somerset Partnership. Discussions have been held, and are continuing, with other local authorities within the constabulary area with a view to examining how and when the powers could be applied. Discussions are being held with the Police and initial conversations have taken place with some of our largest social housing providers.

The commencement date for the use of these notices was 20th October 2014. However, there are various administrative and procedural reasons why the use of these notices is not yet possible and we are currently working towards the New Year as a realistic timescale when the powers may be used.

The joint local authorities are drafting template notices for use, and these are being submitted to legal services for approval. These are also being discussed with the Police with a view to producing a standard template in the constabulary area.

There is current discussion at a national and local level regarding interpretation of one part of the act relating to the authority to prosecute. It is unclear whether the Police have the power to prosecute for a breach of a CPN that they have served. If this is not possible a situation could arise where the local authority are being asked to prosecute for an action initiated by the Police. This clearly gives rise to some concerns on the part of both agencies. Until this matter is resolved action is unlikely.

Public Spaces Protection Order

PSPO's are designed to stop individuals or groups committing ASB in a public space. Similar to the Designated Public Places Order but can be used for much more than just alcohol zones. For example a PSPO may be used for areas where inappropriate games continue to be played after other interventions have failed. Ignoring the order could lead to conviction and a £5000 fine.

Existing Alcohol Zones, and other orders will need to be reviewed between now and March 2017 when the existing orders become obsolete.

The PSPO is issued by the Local Authority after consultation with the Police, PCC and other relevant bodies. A request for a PSPO can come from any community or organization where continued annoyance has not been dealt with.

The new PSPO will be time serving (Maximum 3 years) with minimum annual review.

Premises Closure Order

In practice this is most likely to be used more by the Police than the Local Authority but anticipate that Environment Protection, Licensing and Legal Team to adopt a view on the practicalities of this being used by SSDC. There may be requests coming forward from the community and other agencies to use this power.

Police or Local Authority are able to close premises which are used or likely to be used to commit nuisance or disorder. A Closure Notice can be issued to close premises for 48 hours

by the Police without reference to the courts. Courts can issue a Closure Order for up to six months.

Absolute Ground for Possession

This is a brand new tool to possess and secure assured tenancies where ASB or criminality has already been proven in court or the tenant's property has been closed for more than 48hrs under a Closure Order.

Social Landlords are most likely to be the users of this tool but is available to any landlords.

Dispersal Power

The Police now have the power with an inspectors authorisation to remove a person or persons likely to commit or are committing ASB, crime or disorder to leave an area for up to 48 hours. This tool carries the power to confiscate items used, or likely to contribute to the behaviour.

This is a Police power which could lead to a request for a Public Spaces Protection Order in problem areas to deal with particular problems.

Additional Calls on Service.

It is likely that service requests from the public will increase once they are made aware of the new tools and powers.

It is possible that other organisations will look to the Local authorities to implement or use some of the powers on their behalf to solve issues that have or as yet not been resolved.

Given the continued use of informal interventions it is hoped that these tools and powers will be used as a last result rather than first action but will act as a strong deterrent in the majority of cases.

Financial Implications

There are no financial implications directly related to this report although consideration will be required at a future point.

Corporate Priority Implications

Ensure, with partners, that we respond effectively to community safety concerns raised by local people and that the strategic priorities for policing and crime reduction in South Somerset reflect local needs.

Carbon Emissions & Adapting to Climate Change Implications (NI188)

There are no Climate Change implications directly related to this report.

Equality and Diversity Implications

There are no Equality and Diversity Implications directly related to this report

Background Papers: Anti-social Behaviour, Crime and Policing Act 2014
Report to Area East Committee January 2014 entitled 'Anti-social Behaviour, Crime and Policing Bill'