

## **1.1 Purpose of Report**

- 1.1.1 To provide an update to the Crime and Disorder Scrutiny Panel on the changes that were introduced in October 2014 around the Anti-Social Behaviour (ASB), Crime and Policing Act 2014.
- 1.1.2 The Council, Police and other agencies were given powers, through legislation, to help protect individuals and communities from anti-social behaviour and crime that occurs. These powers changed through new legislation that was introduced in 2014. The intention was that the powers and tools will be easier and quicker to use and in doing so would enhance the protection we are able to give to our communities when responding to ASB. This report gives an overview of the specific legislative changes and the progress made so far.

## **1.2 Actions Requested of the panel**

- 1.2.1 The panel are asked to receive this report and note the current position in respect of implementation of the Act.

## **1.3 Background**

- 1.3.1 On 8th April 2014 the Secretary of State enacted a Commencement Order which brought into force some sections of the Anti-Social Behaviour, Crime and Policing Act 2014 as early as 13th May 2014. The Act included the new ASB Community Trigger and the Community Remedy. These two elements of the Act along with the remainder of the new tools and powers were enacted later in the year on 20<sup>th</sup> October 2014. This meant that Local Authorities, Police, housing providers and all other organisations involved in responding to ASB needed to prepare to implement the new changes.

## **1.4 Implementation of the Act**

- 1.4.1 Working with partners across the West Midlands region West Midlands Police developed a force wide implementation plan for the roll out of the Act. The plan looked at the internal changes needed from within the Police service but also incorporated those areas of the Act that involved Local Authorities, housing providers and other organisations involved with dealing with ASB. To complement the regional plan a local version was developed with our partners. The Solihull implementation plan covered key issues including internal and external communications, opportunities for raising awareness of the Act with all stakeholders, policy and procedure reviews and training for practitioners.
- 1.4.2 The key to the successful roll out of the Act was to ensure that our public and practitioners understood what the changes meant to them and for practitioners to understand how a better more responsive approach to dealing with ASB could be delivered. To this end there was a multi-agency implementation working group set up to deliver the plan and to ensure that all agencies were joined up in their approach.
- 1.4.3 A dedicated area on the Council website was established, outlining the new legislation and what it means for people. A press release was issued when the Act was launched which generated some local media coverage, with more of a focus on the police element of the Act. Information was also sent out to residents via social media and in Your Solihull (the Council's quarterly

magazine for residents). Since the Act was launched we have not any media enquiries to the Council about the new legislation.

## **1.5 Elements of the Act**

1.5.1 The other key elements of the act are listed below.

Part 1: Putting Victims First

1.1 Community Trigger

1.2 Community Remedy

Part 2: More effective responses

2.1 Early and informal interventions

2.2 Civil Injunctions

2.3 Criminal behaviour order

2.4 Dispersal power

2.5 Community protection notice

2.6 Public spaces protection order

2.7 Closure power

2.8 new absolute grounds for possession

1.5.2 A full overview of the Act and its powers can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/248747/01\\_ASB\\_Guidance\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/248747/01_ASB_Guidance_FINAL.pdf)

## **1.6 Part 1: Putting Victims first; Community Trigger**

1.6.1 The Purpose of the trigger is such that it gives victims and communities the right to request a review of their case and bring agencies together to take a joined up problem solving approach to finding a solution. The relevant bodies that can be involved with the review are Councils, Police, Clinical Commissioning Groups and registered providers of social housing. Areas must set a threshold, defined by the local agencies but it should not be more than 3 complaints in the previous six months. It may also take account of persistence of the ASB, the harm or potential harm caused by the ASB and the adequacy of the response to the ASB. As part of the trigger process agencies agreed the mechanisms for dealing with the request once the trigger threshold had been met.

1.6.2 Once the trigger threshold is met, a case review is undertaken by the partner agencies within an agreed timeframe and with the knowledge of the victim. Agencies will share information related to the case, review what action has previously been taken and decide whether additional actions are possible. The local Community Trigger procedure clearly states the timescales in which the review will be undertaken. However, we also stipulate that these timeframes need to be flexible as some of the cases we have had to review have been quite complex and needed longer to review. In all cases the victim or person lodging the trigger is kept informed.

1.6.3 The review encourages a problem-solving approach aimed at dealing with some of the most persistent, complex cases of anti-social behaviour. The victim is informed of the outcome of the review. Where further actions are necessary an action plan is discussed with the victim, including timescales. The trigger can be used by a victim of anti-social behaviour or another person acting on behalf of the victim such as a carer or family member, Member of Parliament or Councillor. The victim can be an individual, a business or a community group.

- 1.6.4 To ensure some consistency around the trigger across the West Midlands Police force the Heads of Community Safety from the seven Local Authority areas worked with officers within West Midlands Police to agree a region wide trigger and a uniformed approach for how the triggers are dealt with once the threshold has been met. Solihull already had a robust multi-agency process for dealing with ASB case work so it was agreed that the current process be amended to incorporate the ability to investigate trigger cases.
- 1.6.5 The multi- agency ASB case conferencing was reviewed and re-launched. Initially there was a slow start to cases being brought to the meeting with few numbers and practitioners being able to attend and present their own cases. This has now improved and the partnership is currently working to move all case management meetings on to a system called ECINs. This system and forum is the ideal way to share information and exchanging ideas securely around the case management for ASB. The new processes was in place and publicised by 20th October 2014 when this section of the Act went live.
- 1.6.6 Since the 20<sup>th</sup> October 2014 Solihull has received 12 trigger requests. 1 is in the early days of being opened up. 6 met the trigger threshold and actions were put in place and the cases are now closed. 4 did not meet the trigger threshold and advice was given and 1 case is still being progressed through the procedure.
- 1.6.7 Solihull has received more trigger requests than other areas around the West Midlands but we would not see this as a negative. The partnership is always looking for ways to continuously improve and provide a better service to victims of ASB. As part of the role of the new Act officers were all trained and briefed on the trigger and wherever cases become complex or unable to be resolved the trigger has been suggested to victims as a way to have their case reviewed.
- 1.6.8 It is early days since the triggers were launched but for all of the cases that have been to panel and have been reviewed lessons and learning have been picked up by the service areas and changes made already. Each case has been fully researched by the relevant agencies and systems interrogated in terms of contact and response for the panels consideration. The whole process is very time consuming in some cases for the team Leader who is pulling the information together, however it has highlighted and identified some downfalls in the processes that the Solihull Community Housing ASB service and the Police sometimes take. We hope that in time this will translate into a better response for dealing with ASB across Solihull.

## **1.7 Part 1: Putting Victims first; Community Remedy**

- 1.7.1 The Community Remedy gives victims a say in the out-of-court punishment of offenders. The legislation does not specify what actions should be included in the Community Remedy document and will vary from one Police Force to another. The Police and Crime Commissioner for West Midlands sought the views of residents on the sanctions to be included in the West Midlands Community Remedy. Under the new rules, victims of low-level crime are offered a say in the way offenders are dealt with out of court. The consultation focused on three key elements:
- 1.7.2 The Act placed a duty on Police and Crime Commissioners to consult with members of the public and community representatives on what punitive, restorative or rehabilitative actions they would consider appropriate to be on the Community Remedy document. Police Officers work from the resulting menu of sanctions when using two types of out-of-court disposal - informal community resolutions and conditional cautions. The victim must be consulted on the sanction to be offered to the offender and given the option to choose an appropriate sanction from the menu. The police officer in question (or

prosecutor in some cases) has the ultimate responsibility for ensuring that the sanction offered to the offender is proportionate to the offence.

- 1.7.3 So far in the Solihull Borough, there have been 119 community resolutions from the 1<sup>st</sup> April 2015 for low level crime and anti-social behaviour incidents. One of the options available to Police officers is requesting offender(s) to participate in litter picking at two locations on the North and South of the Borough working in partnership with the local neighbourhood rangers in which there have been 7 successful disposals for this remedy. The victim's awareness course (VAC) has shown to be effective where it improves victim satisfaction and reduces reoffending. At present there have been 16 successful VAC referrals.

## **1.8 Part 2: More effective powers.**

### **1.8.1 Early and informal interventions:**

- 1.8.2 Early intervention, especially through informal approaches, can be successful in stopping the anti-social behaviour committed by the majority of perpetrators. Early and informal interventions can establish clear standards of behaviour and reinforce the message that anti-social behaviour will not be tolerated. It should be for frontline professionals to decide when and how to use these approaches, but the Government encourages use of informal methods where it is deemed to be appropriate.
- 1.8.3 Informal interventions are considered first in most cases, particularly when dealing with young people, as they can stop bad behaviour before it escalates. The response is determined by professionals on a case by case basis. However, some of the most common forms of informal intervention are the use of warnings – verbal or written, mediation, community resolution or acceptable behaviour contracts. Alternatively, in cases where informal intervention is not the appropriate first step, perhaps because the victim is at risk of harm, professionals consider progressing directly to formal sanctions. The legislation and its changes are meant to provide practitioners with a comprehensive toolkit for dealing with ASB.
- 1.8.4 The Councils environmental crime team have not had the need to use any of the powers yet, although officers have been trained. At the current time officers continue to manage to deal with the issues presented to them by using the existing powers and are working towards producing the template notices and related protocols for any new processes. However, converting our Dog Control Order into a Public space places order is currently being considered.
- 1.8.5 In Solihull, once a reoccurrence of anti-social behaviour for a location or a member of public occurs, the local Police neighbourhood team will work in partnership with local authorities and the public who are being affected by Anti-social behaviour for early intervention. Once a perpetrator(s) has been identified for causing anti-social behaviour, in which it is causing harassment, alarm and distress for the victim then if appropriate the first steps to help tackle the issues will take place. Since the 1<sup>st</sup> of April there has been 16 Anti-social behaviour agreements (ABA) recorded in which 5 are still active, 1 which has now led to a Criminal behaviour Order application and 10 that have been effective where it has essentially helped prevent further Anti-social behaviour and those ABA's are no longer required as the problem no longer exists.

SCH have issued 53 ABA's in the period from the commencement of the Act in Oct 2014 through to the end of Dec 2015. These are for an array of issues from Dog fouling, fly tipping, verbal abuse and smell of cannabis.

### **1.8.6 Civil Injunctions**

- 1.8.7 It is an Injunction to Prevent Nuisance and Disorder and replaced the standalone Anti-Social Behaviour Order (ASBO) and Anti-Social Behaviour Injunction (ASBI) it is to be used to stop or prevent individuals engaging in anti-social behaviour quickly, nipping problems in the bud before they escalate. Agencies that can apply for the injunction are: Local Councils, Social Landlords, Police, Environment agency and NHS Protect.
- 1.8.8 The test for the use of the injunction is conduct capable of causing nuisance or annoyance and it must be seen to be just and convenient to grant the injunction to prevent behaviour. It can be issued by the county court for over 18's and the youth court for under 18s'. The injunction can include prohibitions and can also include positive requirements to get the perpetrator to address the underlying causes of their anti-social behaviour. Agencies must consult youth offending teams in applications against under 18s. Breach of the injunction is not a criminal offence, but breach must be proved to the criminal standard, that is, beyond reasonable doubt.
- 1.8.9 The injunction is available to a wider range of agencies than Anti-Social Behaviour Injunctions and is obtainable on a civil standard of proof unlike Anti-Social Behaviour Orders (ASBOs). There is no need to prove "necessity" unlike ASBOs and a breach is not a criminal offence. There is greater scope for positive requirements to focus on long-term solutions.
- 1.8.10 In Solihull up until now we have had not had the need to use the new injunction but SCH have recently made an application to the County Court for our first Civil Injunction.

#### **1.8.11 Criminal Behaviour Orders (CBO)**

- 1.8.12 These are issued by any criminal court against a person who has been convicted of an offence to tackle the most persistently anti-social individuals who are also engaged in criminal activity. Applicants are the prosecution, in most cases the Crown Prosecution Service (CPS), either at its own initiative or following a request from the Police or Council. The test for the CBO will be if the court is satisfied beyond reasonable doubt that the offender has engaged in behaviour that has caused or is likely to cause harassment, alarm or distress to any person; and the court considers that making the order will help prevent the offender from engaging in such behaviour.
- 1.8.13 The anti-social behaviour does not need to be part of the criminal offence and the order will include prohibitions to stop the anti-social behaviour but it can also include positive requirements to get the offender to address the underlying causes of the offender's behaviour. Agencies must find out the view of the youth offending team (YOT) for applications for under 18s. Breach of the order is a criminal offence and must be proved to a criminal standard of proof, that is, beyond reasonable doubt.
- 1.8.14 In Solihull the Solihull Community Hosing service have been in consultation with the Police over the evidence for a few CBO's. The Police have reported that there have been 11 applications for a Criminal Behaviour Order in which at present there has been one successful CBO prohibiting that individual not to go to any ASDA shopping centre in the country. There are 9 CBO applications in process where there is a requirement for the perpetrator to be charged in order for the CBO to go through successfully, working in conjunction with Crown Prosecution Service so that all information and evidence has been obtained correctly and expeditiously.

#### **1.8.15 Dispersal powers**

- 1.8.16 The dispersal power is a new flexible power which can be used in a range of situations to disperse anti-social individuals and provide immediate respite to a local community. Prior to the Act the Police working with the Council had to go through a cumbersome process for designating the area a dispersal zone before they could deal with the problem, potentially not able to deal with the ASB until the order is approved. The new dispersal power has given the

Police the power to disperse individuals or groups causing or likely to cause ASB in public places. Police officers and police community support officers are able to require a person to leave an area and not return for up to 48 hours. The new power is authorised by an officer of at least the rank of Inspector and does not require consultation with the local authority.

- 1.8.17 The power can be used in any public place and in common areas of private land with the landowner or occupiers consent (such as shopping centres). The enhanced power combines the most effective elements of the current legislation into a single tool. The enhanced power is preventative as it allows an officer to deal instantly with someone's behaviour and deal with the problem before it escalates. The police are now able to deal quickly with emerging trouble spots providing immediate respite to victims.
- 1.8.18 The direction can be given to anyone over the age of 10. The officer is able to return children under 16 home or to another place of safety if they are behaving anti-socially and are not accompanied by an adult. West Midlands Police already have safeguarding arrangements in place to ensure that children are not returned to unsafe homes or placed in potentially harmful situations.
- 1.8.19 The Police Officer or PCSO are also able to require the individual to hand over items causing or likely to cause ASB such as alcohol, fireworks, or spray paint. Confiscated items are held at the police station and can be collected after the period of the dispersal. Failure to comply with the dispersal is a criminal offence and will carry a maximum penalty of a £2,500 fine and/or three months imprisonment. Failure to hand over confiscated items is also a criminal offence and could have a penalty of up to a £500 fine. These sanctions are in line with current equivalent powers and will ensure there are serious consequences for those failing to comply.
- 1.8.20 In Solihull we have had 8 dispersal authorisations in the north and south of the Borough from December 2014 to June 2015. In December there were two section 34 authorisations in Solihull Town centre and McDonalds on Bosworth Drive where 4 were issued with section 35 dispersal notices. In January there was one authorisation in Shirley Park where there was one stop. In February there were 32 stops and 3 arrests from two dispersal authorisations in Chelmsley Wood Town Centre and Solihull Town Centre. There were 3 section 34 authorisations made in June where 20 people were stopped and dispersed.

#### **1.8.21 Community Protection Notice (CPN)**

- 1.8.22 Community Protection Notices are designed to deal with particular, on-going, instances of environmental ASB (i.e. litter clearance or removal of graffiti or fly posting). They can be used against individuals over 16, businesses or organisations, and can be issued by the Police, Council Officers or staff of Social Housing providers.
- 1.8.23 The behaviour has to have a detrimental effect on the quality of life of those in the locality; be of a persistent or continuing nature; and be unreasonable. Written warnings are issued informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing. Community protection notice (CPN) issued including requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour. The notice allows the council to carry out works in default on behalf of a perpetrator.
- 1.8.24 A breach is a criminal offence. A fixed penalty notice can be issued of up to £100 if appropriate. The penalty on breach is a fine of up to level 4 (for individuals), or £20,000 for businesses.

1.8.25 The CPN can deal with a wider range of behaviours for instance, it can deal with noise nuisance and litter on private land not open to the air. It can be used against a wider range of perpetrators and can include requirements to ensure that problems are rectified and that steps are taken to prevent the anti-social behaviour occurring again

Solihull Community Housing has issued 3 CPN warning letters, which have been effective and has resolved the issue in question. These have been for a car repairs issue and two for communal areas litter and cleaning issues.

### **1.8.26 Public Spaces Protection Order (PSPO)**

1.8.27 PSPO replaced Designated Public Places Orders, Dog Control Orders and Gating Orders. These orders are intended to deal with a particular nuisance or problem in a particular area and can apply to everyone. The orders relate to a restricted area and can impose a requirement to stop or carry out specified activity for a maximum of three years, with the possibility to extend the order for up to a further three years.

1.8.28 The PSPO can be used to deal with the consumption of alcohol where it is, or is likely to be, detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

1.8.29 For example, where groups regularly congregate in a town centre or a play park to consume alcohol, resulting in their behaviour having a detrimental effect on the area, agencies can make a PSPO prohibiting the consumption of alcohol, either at all times or during specific times when the problem is more likely to occur. Consideration will also need to be given to displacement of the issue to other geographical areas which might be dealt with by the new enhanced dispersal powers

### **1.8.30 Closure power**

1.8.31 A closure notice prohibits access to the premises for a specified period up to a maximum of 48 hours. It prohibits access to a premise for a maximum of three months. A council or a police officer of at least the rank of Inspector can issue a closure notice if they believe that the use of a particular premise has resulted or is likely to result in nuisance to the public, or there is or likely to be such nuisance nearby, and the notice will prevent the nuisance or disorder from occurring. A case example for the panel is detailed below at point 11.1.

1.8.32 In Solihull we have had five Closure Orders since the commencement of the Act. The use of this power was very straight forward and pretty much the same as the process prior to the changes. The same processes were in place for the Solihull Community Housing officers to communicate with the Police.

### **1.8.33 New absolute grounds for possession**

1.8.34 Eviction powers for social landlords: Currently the court is left with discretion as to whether to evict a tenant under Housing Acts 1985 and 1988 when landlords seek possession of secure and assured tenancies because the tenant has been involved in ASB. The Bill seeks to amend these Acts so landlords can seek to evict tenants involved in ASB or criminal activity. Under the Bill, if it is proved the tenant has been involved in ASB, then the court must evict them

1.8.35 In Solihull we have served a few Notice of Possession proceedings under the new absolute grounds for possession, three of the tenants have handed the keys in and terminated the tenancy and two are awaiting court dates to go through the possession hearing route.

### **1.8.36 Other provisions:**

1.8.37 Dangerous dogs: The provisions of the Dangerous Dogs Act 1991 are amended so that an owner or person in charge of a dog are guilty of an offence if the dog is dangerously out of control in any place, thereby extending the effect of the legislation on to private property. Providers of services will need to review their pet's policy and make tenants aware that dogs can be seized. However, converting our Dog Control Order into a Public space places order is currently being considered.

Police have executed a warrant recently under this new ground where a tenant in a SCH managed property could not control her dog in a public space and it attacked a work contractor walking from his van. The legislation has allowed us to have the dog removed from the property and the tenant has been dealt with accordingly under breach of tenancy and by the police.

## **1.9 Matters for consideration**

1.9.1 The Partners reviewed the implications of the changes in legislation and have adjusted their processes accordingly. The panel are asked to note the current position.

## **1.10 Report Author and contact**

Gillian Crabbe – Community Safety Manager

## **1.11 Case Study – Closure Order**

1.11.1 Following information from SCH's CCTV room of a high number of people attending the address, people who were known as class A drug users and dealers, a drugs warrant was executed by West Midlands Police at the address. The address in one of SMBC high rise blocks is a secure tenancy. Police forced entry and witnessed the tenant attempting to swallow a substance identified as crack cocaine. Officers used a technique that forced the tenant to spit out the drugs which was then secured as evidence. A thorough search at the property revealed small weighing scales, plastic dealer bags, a machete and knives and also a bank statement showing suspicious activity along with receipts with expensive purchases.

1.11.2 Consultation took place with Chief of Operations at Solihull Community Housing, Solihull Council legal team and the Chief Inspector at West Midlands Police within the hour of the warrant being executed and later that day the ASB Officer and Police attended the address and served a 48 hour Closure Notice on the address with notification of a court hearing at Magistrates Court 48 hours later. The closure notice is a legal document that prohibits anyone except the lawful tenant from entering the property, so effectively stopping all the visitors to the property. Breaching the notice is a criminal offence. A copy of the notice was also secured to the front door of the property and two points of entry on the landing where the flat was positioned notifying any visitors that they cannot proceed into the address.

1.11.3 During the period between the service of the closure notice being served and the Magistrates court hearing, the ASB Officer and Police Officer who would be attending court to give evidence prepared witness statements around the details of the warrant and evidence found and breaches of tenancy. All statements were sent to Council's Solicitor before the hearing in preparation for the hearing.

1.11.4 On the day of the hearing, the ASB Officer, Police Officer and the tenant gave evidence. Due to the significant evidence, the Magistrates awarded a three

month closure order. The tenant was advised that she and her family would be required to leave the property at 4.00pm that day and advised to pack some belongs, valuables, documentation and any medication required. The tenant was handed a copy of the closure order in court and advised that SCH would be now issuing her with a Notice of Possession Proceedings and will be applying to the courts for possession under the new Absolute Grounds for possession.

- 1.11.5 At 4.00pm, the ASB Officer returned to the property with the Police to keep the peace and the contractor to erect Sitex security screening to secure the property from no further entry. A copy of the closure notice was secured to the Sitex door along with contact information for the legal tenant on how to gain entry (for example to collect more belongings). The closure notice was also secured to the entrance doors leading to the flat. The Notice of Possession Proceedings was served on the tenant, who later after taking legal advice surrendered the property giving notice to terminate her tenancy.