

## **Anti-Social Behaviour, Crime and Policing Act 2014**

*Strategic Director:* Rina Singh, Strategic Director (Place and Performance)  
*Assistant Director:* Kim Close, Assistant Director (Communities)  
*Service Manager:* Kim Close, Assistant Director (Communities)  
*Lead Officer:* Steve Brewer, Community Safety Coordinator  
*Contact Details:* Steve.Brewer@southsomerset.gov.uk

### **Purpose of the Report**

To gain agreement to implement tools and powers as provided by 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(s)**

- A) That the implementation and use of the new provisions of the Anti-social Behaviour, Crime and Policing Act 2014, as described in the report, be agreed.
- B) That the decision to delegate powers to other agencies to issue Community Protection Notices be delegated to the Portfolio Holder for Regulatory & Democratic Services.
- C) That the decision to set penalty charges in relation to Fixed Penalty Notices is delegated to the Portfolio Holder for Regulatory & Democratic Services.

### **Background**

The tools identified in the 'Anti-social Behaviour, Crime and Policing Act 2014' seek to streamline and replace the existing framework for tackling ASB and environmental nuisance. Whilst it replaces all the existing ASB tools, legislation to tackle statutory noise nuisance is still in place, as are powers to deal with stray dogs and dangerous dogs. All of the tools are discretionary with the exception of the Community Trigger which we are obliged to deliver.

### **New Tools and Powers**

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

The Act introduces 7 new powers that replace the previous 19 and there are two new initiatives that are all designed to improve services to victims.

The Appendix illustrates how the new tools replace the old ones 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 problems.

The Safer Somerset Partnership (SSP) 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 are 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 by calling 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 SSP pilot of the Community Trigger run in the Mendip District Council area from January 2014 has helped to refine 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 related to the same incidents in the same area so treated as one trigger. This led to 4 completed reviews.

The Community trigger went live on the 20th October 2014 as planned and information on the scheme is available on the Avon and Somerset Constabulary website. 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 all the agencies in areas across the region time to embed the Community Trigger process into their services and help manage community expectations.

Within South Somerset the Community Safety Co ordinator maintains an overview of the scheme and acts as 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. The Police will use this (restorative Justice) to deliver a conclusion that a victim has agreed to. The guidance does not refer to the use of independent panels and it seems as though the intention is for more informal intervention carried by the Police rather than the Community Justice Panels developed in South Somerset. The PCC is responsible for setting the criteria, developing the documentation for the Police

and possibly others to use. SSDC will Support Police with the implementation of this scheme if requested to do so.

## **Civil Injunction**

Civil injunctions 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**

Criminal Behaviour Orders are issued by the court at the request of the prosecutor on conviction of a crime to help stop further crime or related ASB. The Crown Prosecution Service is taking the lead in support from Police, although applications for a CBO can be made by the local authority. 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 (CPN)**

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:

- 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.

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 although there is discretion on setting the amount charged and possibly to set a lower charge if the FPN is paid early in a similar way to the other FPN notices issued. 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

The Police are able to use these notices for anti-social matters that come to their attention. Within SSDC 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

Officers have attended workshops organised by the Safer Somerset Partnership. Discussions have been held, and are continuing, with the Police and other local authorities within the constabulary area with a view to developing procedures around how agencies will work together and share information. Notice templates and documents have been developed and agreed and are now available for use.

The commencement date for the use of these notices was 20th October 2014, although whilst the above discussions have been ongoing we have not actively sought to use these notices.

It is possible for local authorities to delegate the power to issue CPNs to others, for example social landlords, although this part of the legislation is not yet enabled. Further consideration of this option is needed and it is proposed and this decision be delegated to the Portfolio Holder for Regulatory and Democratic Services.

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

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 £5,000 fine. PSPOs will also replace Dog Control Orders which currently set the areas subject to dog fouling enforcement. Existing Alcohol Zones, Dog Control Orders, 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 organisation 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**

Premises Closure Orders are most likely to be used by the Police, but Environment Protection, Licensing and Legal Team will adopt a view on the practicalities of this being used by SSDC. Requests may come from the community and other agencies to use this power under which the Police or the Local Authority is 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, but the 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 inspector’s 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.

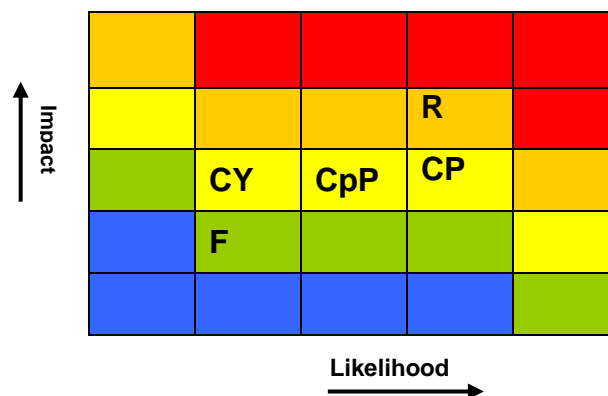
It is possible that other organisations will look to the Local authorities to implement or use some of the powers on their behalf to solve issues that have or as yet not been resolved.

Informal interventions will continue to be used in many cases, but where necessary and proportionate these powers will provide an additional tool that can be used to address a range of problems arising as a result of anti-social behaviour.

### Financial Implications

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

### Risk Matrix



#### Key

Categories	Colours (for further detail please refer to Risk management strategy)
R = Reputation	Red = High impact and high probability
CpP = Corporate Plan	Orange = Major impact and major probability
CP = Community Priorities	Yellow = Moderate impact and moderate probability
CY = Capacity	Green = Minor impact and minor probability
F = Financial	Blue = Insignificant impact and insignificant probability

### 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 and Climate Change Implications

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