

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **TUESDAY, 17 MARCH 2015**

REPORT BY: **CHIEF OFFICER – PLANNING AND ENVIRONMENT**

SUBJECT: **ENFORCEMENT OF THE ENVIRONMENTAL
POWERS UNDER THE ANTI-SOCIAL BEHAVIOURS,
CRIME AND POLICING ACT 2014**

1.00 PURPOSE OF REPORT

- 1.01 To request that Members delegate authority to the Chief Officer for Planning and Environment and the Chief Officer for Community and Enterprise, to exercise the Council's environmental powers under the Anti-social Behaviour, Crime and Policing Act 2014.
- 1.02 To seek Members' agreement that the Chief Officer for Governance amends the Council's Scheme of Delegation to Officers, in accordance with the Constitution.

2.00 BACKGROUND

- 2.01 On 18th November 2014 Cabinet received a report that outlined the implications of the Anti-Social Behaviour, Crime and Policing Act 2014. At the same meeting the Council's approach to deal with the new powers around the 'Community Trigger' was approved.
- 2.02 The implications of the legislation have also been considered by the Council's overview and scrutiny committees in January 2015. As a result the Housing Department's anti-social behaviour policy has been amended to accommodate these changes.
- 2.03 The Act came into effect on the 20th October 2014. It proposes a number of reforms to existing legislation that puts the victim at the heart of the response to anti social behaviour, by providing professionals and organisations with greater flexibility to deal with any given situation.
- 2.04 The reforms set out in Parts 1-6 of the Act are intended to ensure that officers have effective powers that are quick, practical and easy to use to provide better protection to victims and communities and act as a deterrent to perpetrators. 19 existing powers are replaced with 6 simpler and more flexible ones.

3.00 CONSIDERATIONS

- 3.01 Two of these new powers that have been conferred upon local authorities are the *Community Protection Notice* and the *Public Space Protection Order*. Sections 3.02 to 3.16 of this report outlines the implications of these powers.

Community Protection Notices (CPN)

- 3.02 A Community Protection Notice (CPN) is intended to deal with particular, on-going problems or nuisances which negatively affect the community's quality of life by targeting those responsible. These include graffiti, rubbish and noise. A CPN does not discharge the Council from its duty to issue an Abatement Notice where the behaviour constitutes a statutory nuisance for the purposes of Part 3 of the Environmental Protection Act 1990.

- 3.03 The test to be applied in issuing a Community Protection Notice is broad, and focuses on the impact anti-social behaviour is having on victims and communities. A CPN can be issued by the Police, Flintshire County Council authorised officers or Registered Social Landlords if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:

- Is having a detrimental effect on the quality of life of those in the community;
- Is persistent or continuing in nature; and
- Is unreasonable.

- 3.04 Under the procedure outlined in the statutory guidance (which accompanies the Act) a written warning has to be served followed by the CPN. At a later stage a Fixed Penalty Notice (FPN) may be issued for non-compliance. In addition, the CPN can be appealed within 21 days of service. All these processes are required to be recorded and evidenced, and the Council and its partners must ensure that effective monitoring arrangements are in place. Some form of 'gate keeping' arrangement may be required in order to avoid duplicate actions by partner organisations.

- 3.05 Coordination for these processes will be assumed by the teams enforcing the new powers.

Failure to comply with a CPN can result in one of the following sanctions:

- Fixed Penalty Notice
- Remedial Action
- Remedial Orders
- Forfeiture Orders

- Seizure

Public Space Protection Orders (PSPO)

- 3.06 Public Spaces Protection Orders (PSPO) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area that apply to everyone, such as street drinking, roaming dogs in parks, and groups of people causing noise issues in open spaces. They will replace the Designated Public Place Order and the Dog Control Order
- 3.07 A local authority may make a Public Space Protection Order if satisfied on reasonable grounds that two conditions are met:
- Activities carried out in a public place have had or will likely have a detrimental effect on the quality of life of those in the locality.
 - The effect or likely effect of the activities is of a persistent or continuing nature, the activities are unreasonable, and justifies the restrictions imposed by the Order.
- 3.08 An Order may last for up to three years, but can be renewed before expiry.
- Breach of an Order is a criminal offence. Where appropriate a fixed penalty notice may be issued. They can be enforced by the police and local authority.
- 3.09 Existing Dog Control Orders and Designated Public Place Orders will expire three years after commencement of the Act.
- 3.10 The local authority may make a PSPO on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, as of right or by virtue of express or implied permission. Restrictions are set by the local authority and the conditions may be enforced by authorised council officers, police officers and police community support officers.
- 3.11 Before making an application for a PSPO there should be sufficient evidence to support the need for such an order. Alternative means to remedy the behaviours experienced should also have been considered before making an order.
- 3.12 There is also a requirement to consult with North Wales Police, the Police and Crime Commissioner, along with other relevant stakeholders such as the local town councils, before an order may be granted.
- 3.13 It is proposed that the co-ordination and administration for PSPO's is led by the Community Safety Team, within Public Protection. A procedure has been drafted which outlines the approach. A copy of the procedure accompanies

this report. It is proposed that the decision to designate an Order will rest with the Chief Officer for Planning and the Environment on behalf of the Council.

Enforcement

3.14 For the Community Protection Notice and Public Spaces Protection Order provisions to be effective there will need to be enforcement provision. It has been agreed by Cabinet on 18th November 2014 that Public Protection officers currently undertaking this type of community based work should be authorised to enforce these powers. The occupational groups likely to be authorised will be:

- Environment al Enforcement Team
- Environmental Health Officers/ Enforcement Officers
- Neighbourhood Wardens
- Housing Officers

3.15 In order that these powers are exercised it is requested that the Chief Officer for Planning and Environment and the Chief Officer for Community and Enterprise are delegated to authorise the appropriate officers to undertake these duties.

3.16 Furthermore, as the PSPO is solely a local authority power, Members are also requested to delegate the power to the Chief Constable of North Wales Police to discharge the enforcement powers to police officers. On occasion it will be more appropriate for police officers to enforce the powers than council officers. For example, outside working hours or in threatening situations. In such instances there would need to be an understanding from partners that an Order could not be considered without their commitment to lead or share the enforcement duties.

4.00 RECOMMENDATIONS

4.01 That the Chief Officer for Planning and Environment and the Chief Officer for Community and Enterprise be given delegated authority to authorise officers to serve Community Protection Notices and, Fixed Penalty Notices in the event of a breach, in accordance with the Anti-social Behaviour, Crime and Policing Act 2014.

4.02 That the Chief Officer for Planning and Environment be given delegated authority to designate and approve Public Space Protection Orders on behalf of Flintshire County Council, and authorise officers to enforce, identified, prohibited activities in areas designated by such orders, in accordance with the Anti-social Behaviour, Crime and Policing Act 2014.

4.03 That Members delegate the power to enforce PSPO's to the Chief Constable of North Wales Police to discharge the enforcement powers to police officers.

4.04 Cabinet Members are asked to support and note the new tools and powers available to social landlords, and to support the amendments to the Housing Anti Social Behaviour Policy to enable the council to make effective use of the legislation.

5.00 FINANCIAL IMPLICATIONS

5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 Many anti-social behaviour activities result in negative impacts, particularly on local environments.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 None as a result of this report.

12.00 APPENDICES

12.01 Public Space Protection Order – Flintshire County Council Procedure

12.02 Flintshire County Council Housing Anti Social Behaviour Policy

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

None.

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