

Agenda Item No: 11

Report to: Cabinet

Date of Meeting: 5 January 2015

Report Title: Proposed scheme of delegation for the Anti-Social Behaviour Police and Crime Act 2014

Report By: Richard Homewood
Director of Environmental Services

Purpose of Report

To propose a scheme of delegation for the enforcement powers set out in the Anti-social Behaviour Police and Crime Act 2014.

Recommendation(s)

- 1. That Cabinet delegates the powers listed in paragraph 3 to the Director of Environmental Services and his nominees.**

Reasons for Recommendations

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 delegate powers under the Act.

Introduction

1. On 6th October 2014 Cabinet considered a report providing background information about the new powers contained within the Anti-Social Behaviour Police and Crime Act 2014. As well as proposals for implementing the community trigger provisions, which were subsequently adopted by Council when it met on 22nd October.
2. That report also advised that Officers were working with colleagues across the County reviewing the recently published statutory guidance and attending specialist training to help with the local implementation of the new powers.
3. The Act contains a broad range of powers. Parts 1 to 6 relate specifically to antisocial behaviour (ASB) and introduce new powers. The Act replaces 19 existing powers to deal with ASB with six faster more effective ones, 5 of which can be utilised by the Council. These are:

The Civil Injunction.

The Criminal Behaviour Order

Community Protection Notice

Public Space Protection Order

Closure Power.

4. The 6th new faster power is to make it easier for the Police to require a person committing or likely to commit ASB or crime and disorder to leave an area for up to 48 hours.
5. The Civil Injunction will not be in force until January 2015 at the earliest. It is a civil power which can be applied for to deal with anti-social individuals and is intended to quickly prevent individuals from engaging in anti-social behaviour before 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 contain prohibitions forbidding proscribed behaviour and positive requirements.
6. The Criminal Behaviour Order is available on the conviction of an individual for a criminal offence by a criminal court. The Council can apply when it prosecutes the offender. The Criminal Behaviour Order can contain prohibitions and positive requirements and is the criminal equivalent of the Civil Injunction.
7. The community protection notice 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 is intended 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. 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 can be issued by Council officers, amongst others, and it is

intended that in due course that a local authority will be able to authorise social landlords to issue notices.

8. Public Space Protection Orders are designed to stop individuals or groups from committing anti-social behaviour in a public space. Councils will issue public spaces protection orders after consultation with the police, the Police and Crime Commissioner and other relevant bodies. An order can include a number of requirements/restrictions. It 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.
9. The closure 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 issuing a notice and thereafter, where appropriate, applying to the court for a closure order.

Proposed Scheme of Delegation for the New Powers

10. As a result of legal advice it is clear that the use of the new powers currently requires Cabinet consent.
11. For example if it is deemed appropriate for a person to be served with one of the new Community Protection Notices, Officers will need to submit a report to Cabinet seeking specific Cabinet approval to serve the Notice. It is anticipated that Officers within the Environmental Services Directorate are frequently likely to need to serve such Notices, and that the requirement to seek Cabinet approval would make the new powers unwieldy and cause unreasonable delay in taking enforcement action to resolve common low level anti-social behaviour.
12. As mentioned above, Community Protection Notices are similar to several other Notices that Officers are already authorised to serve on a routine basis, such as Noise Abatement Notices.
13. Similarly, the Closure power could need to be used at very short notice following intelligence received from the Police, outside normal working hours.
14. Therefore in order for this Authority to discharge its functions under the Act, a scheme of delegation should be in place. It is suggested that the most appropriate delegation for Cabinet to make is to the Director of Environmental Services and their nominees. Nominees would include the Head of Environmental Health and other professional staff within the directorate.
15. 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 Director of Environmental Services.

Policy Implications

16. Members will note that several of the policy implications headings are relevant to this report. Implementation of the new enforcement powers should contribute to improved equalities and community cohesion within the borough. As anti-social

behaviour is often targeted at the most vulnerable in society and these new powers will help to put victims at the heart of the response to anti-social behaviour, as well as ensuring that the Council is better able to help them. It is not intended that we carry out an Equalities Impact Assessment in relation to the proposed scheme of delegation as there should be no negative impacts from a discriminatory perspective.

17. Similarly, from a crime and fear of crime perspective use of the new ASB powers should empower residents and reduce their fear of crime.

18. From a human rights act perspective it is important that the Council does not contribute to the potential denial of human rights, by failing to effectively address complaints of ASB utilising the new powers.

19. .

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	No

Background Information

Insert a list of appendices and/or additional documents

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