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<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>POLICY AND RESOURCES COMMITTEE</b>
<b>DATE:</b>	<b>4 DECEMBER 2014</b>
<b>REPORT OF THE:</b>	<b>PHIL LONG CORPORATE DIRECTOR</b>
<b>TITLE OF REPORT:</b>	<b>ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To inform Members about the new provisions for tackling anti-social behaviour (ASB) contained within the Anti-social Behaviour, Crime and Police Act 2014 and seek delegated powers for implementation of the relevant parts of the Act.

### **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:
- (i) The Corporate Director be delegated the functions of the Council under the relevant provisions of the Anti-social Behaviour, Crime and Police Act 2014 including, but not limited to, exercising all strategic, operational and management powers and duties of the Council under the aforementioned Act.
  - (ii) The implications of the new powers are noted and that a further report outlining issues arising from the Act is submitted once the full implications of the Act become clear.

### **3.0 REASON FOR RECOMMENDATIONS**

- 3.1 To enable a strategic lead and implementation of the powers including the authorisation of officers to be in place.

### **4.0 SIGNIFICANT RISKS**

- 4.1 The reduction in crime and anti social behaviour is a key priority for both the Council and the North Yorkshire Community Safety Partnership and the Safer Ryedale Local Delivery Team. There has been a lot of publicity around the introduction of the new powers and the community remedies, which will have raised expectations within the community as to the Council and other partners being pro active and implementing

the powers. Failure to implement the powers would be likely to be perceived very negatively.

- 4.2 While the Council has structures and mechanisms in place, particularly through the multi agency structures, there are likely to be resourcing and capacity implications particularly within the Safer Ryedale Local Delivery Team, Health and Environment Services and Legal Services.

## REPORT

### 5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 The Anti-social Behaviour, Crime and Policing Act 2014 provides a new approach to tackling anti-social behaviour which will contribute to the Councils aim of having a safe and active community and the Council Priorities 2014-18.
- 5.2 Across North Yorkshire, NYCC, district councils and other partners have worked in partnership to prepare for implementation of the new powers and tools, to ensure a consistent partnership-based use of the new powers across the county and policing area. A Development Group has been established and multi-agency workshops have been held throughout 2014. The discussions at the workshops have also helped inform the development of local thresholds, such as the community trigger.
- 5.3 A multi-agency training session on the new powers was held at Ryedale House on 30 September 2014 for a wide range of organisations including the Council, police, health organisations, NYCC, voluntary sector etc.

## REPORT

### 6.0 REPORT DETAILS

- 6.1 The Anti-social Behaviour, Crime and Policing Act received Royal Assent on 13 March 2014 and the new powers were implemented from 20 October 2014, with the exception of Civil Injunctions. These powers have been delayed to allow changes to the civil legal aid system which it is anticipated should be complete by the end of January 2015. Until then authorities can continue to use Anti-Social Behaviour Orders (ASBO's).
- 6.2 The new Act replaces 19 existing powers dealing with ASB with 6 broader powers which are intended to streamline procedures to allow a quicker response to anti-social behaviour. The Government envisages that these that these powers will make it easier for victims and communities to take action against ASB and reduce repeat violations. The Act covers a range of matters:
- Parts 1-6 deal with anti-social behaviour
  - Parts 7 deals with dangerous dogs
  - Parts 8-10 deal with firearms, protection from sexual harm and violence and prohibitions on forced marriages
  - The remainder of the Act deals with policing, extradition, criminal justice and court fees.
- 6.3 The Act introduces two new measures which are designed to give victims and communities a say in the way ASB is dealt with:
- **The Community Trigger** gives victims the right to request a review of their case, where the locally defined threshold is met. This will impose a duty on the relevant

bodies in an area (police, district council, clinical commissioning groups and registered social housing providers who are co-opted onto the group) to take action in cases where victims or communities have complained about ASB on a number of occasions or when a number of people report the same ASB and it is perceived that local agencies have failed to respond. Within North Yorkshire, following multi-agency consultation, the following Community Trigger for a case review has been established - three complaints of ASB in a 6 month period, each complaint must have been made to the council, police or housing provider within 1 month of the incident and the application must be made within 6 months of the ASB reported.

If a review is triggered, relevant bodies must carry out the review and then inform the applicant of the outcome and any recommendations. There is a requirement for relevant bodies to produce and publish "review procedures" for carrying out any ASB case review. Relevant bodies must also report the number of applications received the number of times the threshold was met, the number of reviews carried out and the number of reviews that resulted in recommendations.

- **The Community Remedy** gives victims a say in the out-of-court punishment of perpetrators for low-level crime and ASB. This uses a restorative justice approach to deal with persons who have engaged in low level crime or ASB, and is to be dealt with without recourse to court proceedings. The Police and Crime Commissioner will be required to publish a Community Remedy Document following consultation, which will provide a range of sanctions and actions that a low level ASB offender who has admitted the offence can undertake at the choice of the victim

6.4 [Statutory Guidance](#) for frontline professionals has been published by the Home Office together with a practitioner's manual for [Dealing with irresponsible dog ownership](#). The new powers signal a fundamental change in the way ASB can be tackled with powers that are broader and less prescriptive but conversely are therefore more open to interpretation. Indeed the Government have specifically avoided attempts to define ASB entirely and have instead applied specific tests to each of the new ASB tools, preferring this to be tested and further specified in case law, through the use of the new powers. The Development Group have provided suggested [guidance](#) for all partners in North Yorkshire and are developing a website with templates and flowcharts for each power.

#### 6.5 **Civil injunctions**

The injunction is a civil power which can be applied for to deal with anti-social individuals. The injunction can offer fast and effective protection for victims and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating. Agencies that can apply for injunctions include district councils, social landlords, the police (including British Transport Police), NHS protect and Environment Agency. Applications must be made to a youth court for those aged under 18 and to the county court or High Court in all other cases. The injunction can prohibit the offender from doing prescribed things (prohibitions) and require them to do certain things (requirements). The requirements should aim to tackle the underlying causes of ASB and could include such things as attending an anger management course, participating in substance misuse awareness sessions, or attending a job readiness course. Injunctions are civil and require the civil standard of proof. Breach of the injunction is a contempt of court. If an injunction is breached, the offender must be brought before a court within 24 hours and the applicant authority must be present to prosecute the breach. It is worth noting that current or existing Anti-Social Behaviour Orders (ASBOs) remain valid until 2019.

**6.6 Criminal behaviour order (CBO)**

The CBO is available on conviction for any criminal offence in any criminal court. It is intended to tackle the most persistently anti-social individuals, who are also engaged in criminal activity. The applicants are the prosecution, which in most cases is the Crown Prosecution Service (CPS), either at its own initiative or following a request from the police or council. The CBO is similar to the civil injunction and can include prohibitions and requirements and is designed to be preventative and not punitive. Orders can include requirements for the offender to undertake positive interventions for example, attending drug treatment programmes.

**6.7 Dispersal Power**

This is a police power to direct any individual causing or likely to cause ASB, crime and disorder away from a particular place and to confiscate related items. The power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. A person can be removed from an area for up to 48 hours, if authorised by a police inspector or above.

**6.8 Community protection notice (CPN)**

The CPN is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. These include graffiti, rubbish and noise. They require an individual or organisation to stop doing an activity or to undertake activities to stop behaviour which is negatively affecting the community's quality of life. 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.

6.9 Under the procedure a written warning has to be served followed by a CPN, which can be appealed within 21 days of service. Failure to comply with a CPN can result in a number of sanctions – Fixed penalty notice, remedial action, remedial orders, forfeiture orders or seizure. A CPN can be issued by council officers, police officers and police community support officers (if designated) and social landlords (if designated by the Council).

**6.10 Public spaces protection order (PSPO)**

The PSPOs 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 which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour. This could include, but is not restricted to, placing restrictions on the use of parks, alleyways or communal areas to prevent problems with misuse of alcohol, dogs or noise. District Councils will be responsible for making PSPOs but police officers and community support officers can also play a role in enforcement. The PSPO replaces Designated Public Place Orders (DPPOs), gating orders and dog control orders. PSPOs are for a maximum of three years and orders need to be reviewed after three years.

**6.11 Closure powers**

The closure power can be used by the police (of at least inspector rank) or council to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder. These are very similar to the closure powers it replaces. The closure notice can close a property and prohibit access for up to 24 hours (48 hours if a CEO

or Superintendent). The notice can then be extended upon application for a closure order to the magistrates' court for a period of up to 3 months. At any time before the expiry of the closure order, an application may be made to the court for an extension of the order up to a total of six months. A closure notice cannot prohibit access in respect of anyone who habitually lives on a premise

#### 6.12 **New absolute ground for possession**

The Act introduces a new absolute ground for possession of secure and assured tenancies where anti-social behaviour or criminality has already been proven by another court. The purpose of the new absolute ground for possession is to speed up the possession process. Local authorities, social and private landlords will no longer need to prove that it is reasonable to grant possession, the court will be more likely to determine cases in a single, short hearing. The new absolute ground is intended for the most serious cases of anti-social behaviour and landlords should ensure that the ground is used selectively.

### 7.0 **IMPLICATIONS**

7.1 The following implications have been identified:

a) **Financial**

There are no immediate financial implications, but this will be kept under review as the implementation proceeds. The Safer Ryedale Local Delivery Team has been commissioned by the Police and Crime Commissioner to address ASB activity in the district and £20,000 has been awarded to 31<sup>st</sup> March 2016.

b) **Legal**

The new powers will require timely legal input in terms of consultation, advice and progressing cases to court, which will inevitably put more pressure on Legal Services. The new powers include specific timescales for action, for example, in relation to the civil injunction, the offender must be brought to court within 24 hours and the applicant authority must be preset to prosecute.

c) **Equalities** – The Act is centred around the victim and recognises the vulnerability of residents that are or could be the victims of ASB

d) **Staffing**

Effective implementation of the new powers, will require support from a range of Council services including the Safer Ryedale Local Delivery Team, Health and Environment and Legal Services

e) **Crime and Disorder**

The Act provides the powers to deal with ASB within Ryedale.

### 8.0 **NEXT STEPS**

The new Act focuses on the importance of interventions in early interventions in ASB activity, understanding the needs of victims and case management between many organisations. An officer working group has been established to look at both internal procedures and liaison with partner organisations. The group will keep under review the effectiveness of the processes, the risk of the community trigger and resourcing requirements.

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[www.nyyasbpowers.tools](http://www.nyyasbpowers.tools)

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