

# Communities, Housing and Environment Committee

13/10/2015

Is the final decision on the recommendations in this report to be made at this meeting? **Yes/No**

## New Anti-social Behaviour Powers

<b>Final Decision-Maker</b>	Communities, Housing and Environment Committee
<b>Lead Director or Head of Service</b>	David Edwards, Director of Environment and Shared Services
<b>Lead Officer and Report Author</b>	Martyn Jeynes/Sarah Robson
<b>Classification</b>	Non-exempt/ (if exempt, please state exemption)
<b>Wards affected</b>	All

### This report makes the following recommendations to the final decision-maker:

1. That it is noted that new Anti-Social Behaviour (ASB) powers are available to the Council under new legislation as described in the Members Guide (Appendix I) and that amendments have been made to the Council's Scheme of Delegation, the officer authorisations, the Enforcement Policy for Environmental Enforcement Policy and relevant procedures to allow implementation including a new Community Trigger (Appendix II)
2. That the fixed penalty notice (FPN) amount served where the authorised person believes an offence has been committed under sections 48 of The Act (Community Protection Notice) shall be £100.
3. That any FPN that is served where the authorised person believes an offence has been committed under sections 63 or 67 of The Act (Consumption of Alcohol Order or Public Space Protection Order) shall be £100 unless an alternative amount is stated in any such order creating an offence.

### This report relates to the following corporate priorities:

- Keeping Maidstone an attractive place for all
- Securing a successful economy for Maidstone Borough

### Timetable

<b>Meeting</b>	<b>Date</b>
Communities, Housing and Environment Committee	13/10/2015

# New Anti-social Behaviour Powers

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) provides a number of new tools for dealing with anti-social behaviour. The Act aims to provide quicker and more effective tools than those in previous legislation, better protection to victims and communities and will deter perpetrators. Much of the Act is already in force and work is ongoing between Environmental Enforcement, Community Safety, Kent Police and other Safer Maidstone Partnership members to explore the opportunities presented by the act. .
  - 1.2 This report provides an overview of the new tools available, the action taken to ensure officers are equipped to use the tools and seeks a decision in regard to the levels of fixed penalty notices which can be utilised by officers.
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## 2. INTRODUCTION AND BACKGROUND

### 2.1 Dealing with Anti Social Behaviour (ASB)

- 2.1.1 The following sections set out the new anti-social behaviour powers and how these compare to previous arrangements. A guidance document for members has been produced (Appendix 1) to improve understanding and to identify the process for reporting ASB.
- 2.1.2 The council and its partners through Community Safety Unit (CSU) already provide a robust response to ASB issues in Maidstone. The council is committed to meeting its responsibilities as a lead partner in the CSU, in protecting the community at large, businesses and the local environment. The council has a legal duty under the Crime & Disorder Act 1998 to work in partnership to reduce crime and disorder.
- 2.1.3 Behaviour typically considered anti-social includes:
  - Nuisance, rowdy or inconsiderate neighbours
  - Vandalism, graffiti and fly-tipping
  - The buying, selling or using of drugs in public
  - Street drinking
  - Environmental damage including littering, dumping of rubbish and abandonment of cars
  - Prostitution- related activity
  - Begging and vagrancy
  - Firework misuse
  - Inconsiderate or inappropriate use of vehicles

## **2.2 Response to the New Anti-Social Behaviour, Crime and Policing Act 2014**

2.2.1 The new Act has change the council's response to ASB. The Act has:

- Streamlined the current ASB toolkit reducing the number of orders from 19 to 6 (as detailed in the members guide (Appendix 1))
- Placed the victim(s) of ASB at the heart of the response
- Provided greater flexibility for the council and our partners to deal with any given situation, with more flexible remedies
- Focussed on better victim satisfaction through improved outcomes
- Increased our accountability to witnesses and communities if we fail to act through a community trigger

2.2.2 Whilst the legislative framework has been simplified by the Act, the scope for use is much broader. The content of the Act took effect from 20 October 2014, with the civil injunction being introduced in early 2015. The Act and its possibilities for the Borough Council, Kent Police and other partners was presented to the Safer Maidstone Partnership and the CDRP OSC in December 2014, together with proposals for amending delegated authorities within the Constitution. Over the past year, the Safer Maidstone Partnership instigated an ASB Task and Finish group to review the possibilities within the new legislation and to embed training and development as part of it. The report which is being brought to you today, is the result of this work and defines how the Borough Council has and will utilise these new powers into its daily working practice.

2.2.3 The legislation repealed by the Act had a direct impact on the Environmental Enforcement team. A report to the Monitoring Officer was made in April 2015 to amend the constitution which allowed officers to be appropriate delegations of authority, to ensure the team were able to continue to enforce against issues such as litter/refuse resulting from a business. To date the team have issued 30 Community Protection Notice Warnings, a necessary step as described in the members guide, and have had 100% compliance to date with businesses and residents taking the steps prescribed in the warning to avoid further enforcement action.

2.2.4 The Enforcement team are now looking at the other potential uses of the powers, including increasing the penalty for dog fouling through a Public Space Protection Order and the use of Community Protection Notices to improve our response to neighbour noise. This is where it does not trigger our responsibilities in regard to Statutory Nuisance but is still causing concern for the victims of noise.

2.2.5 As a result various council departments are considering the use of Public Space Protection Orders to deal with a number of issues including legal highs, rough sleeping and dog control. Further reports to discuss these will be brought to Committee in due course to explore these in more detail.

- 2.2.6 The Maidstone Community Safety Unit will administer the Community Trigger as detailed in Appendix II. The community trigger does not replace existing anti-social behaviour reporting lines . It gives victims who have persistently reported problems of anti-social behaviour the right to request a review of their case, where they believe their complaint has not been properly addressed.
- 2.2.7 Further detail on the community trigger is provided in Appendix 1 or online at [www.maidstone.gov.uk/residents/community-safety/community-trigger](http://www.maidstone.gov.uk/residents/community-safety/community-trigger) .

### **2.3 The use of fixed penalty notices and setting the penalty levels.**

- 2.3.1 Amongst the enforcement options is the use of Fixed Penalty Notices (FPNs). The use of FPNs has been common practice across policing and environmental enforcement for some time. FPNs are **not** fines. A FPN provides an opportunity to an offender to discharge their liability for an offence, avoiding higher penalties in the courts and unnecessary court time to deal with relatively low level crimes.
- 2.3.2 The act provides that Fixed Penalty Notices are available in relation to breaches of a CPN, a Consumption of Alcohol Order or a PSPO. The maximum penalty for each is £100. It also allows for a discount on early payment.
- 2.3.3 Environmental Enforcement has used FPNs in relation to offences including littering, fouling and waste/refuse offences for many years. This includes FPNs issued for breaches of existing Street Litter Control Notice. Although this has been repealed by the Act, it carried an FPN of £100 for breach of notice.
- 2.3.4 Setting the fixed penalty level at the maximum level, without discount, provides the best deterrent and maximises the enforcement impact. It is also consistent with the use and administration of existing FPNs issued for fouling, litter and waste offences not repealed by the Act.

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## **3. AVAILABLE OPTIONS**

- 3.1 The committee could chose to endorse all the recommendations as recommended in this report.
- 3.2 There are no alternative actions with regard to the Act as the Crime and Disorder Act 1998 places a duty upon a local authority to seek to prevent crime and disorder in its area in carrying out its duties. The Act sets out a requirement to introduce a procedure for the Community Trigger which has been undertaken by the SMP.
- 3.3 The new Act also repeals a number of existing powers.

- 3.4 At present it is difficult to fully assess the impact of the changes; particularly the likely resources needed to respond to Community Trigger reviews although the pilots that have been undertaken show that it has not resulted in a significant increase in the resource required.
- 3.5 The committee could also choose to set a lower FPN amount and/or an early payment discount in relation to offences. This has not been recommended as a lower FPN level would not be consistent with the FPNs issued for the same offences under the repealed legislation.
- 3.6 Introducing an early repayment scheme would not be consistent with the other FPNs issued by the Enforcement team where early repayments are not offered. It is appreciated that it is difficult for some individuals to pay their FPN so alternatives already exist to allow offenders to make the necessary payment, including generous extension periods.
- 3.7 The option to not set a standard amount for a FPN issued under section 63 and 67 has been considered but it is felt that setting a standard amount at this stage would maximise the impact of the legislation and provide a consistent approach. The option to introduce a lower FPN is retained should this ever be considered necessary in the future as it can be specified in the act.
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

##### **4.1 Awareness of the Act**

Although there is no decision in regards to adoption of the powers contained within the Anti-Social Behaviour, Crime and Policing Act 2014 officers would like members to be aware that the new legislation is being implemented across the authority and work is ongoing across the council and with partners to ensure we make the most of the opportunity to deliver significant improvements in our responses to anti-social behaviour. Specific reports will follow this report seeking authority in relation to Public Space Protection Orders.

##### **4.2 FPN levels**

Setting a default FPN level will provide a consistency for all agencies that issue FPNs and will provides the best deterrent and maximises the enforcement impact. These will be reviewed annually through the Fees and Charges report.

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#### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 No consultation has been undertaken by the local authority. The Crime and Disorder Act 1998 places a duty upon a local authority to seek to reduce crime and disorder in its area in carrying out its duties. The Act set out significant changes and we have reviewed and adapted existing ways of working and adopted a new procedure for the Community Trigger.
- 5.2 The Home Office and other agencies undertook significant consultation in the development of the Act.

5.3 Consultation is a requirement in regard to the introduction of provisions within the Act, such as Public Space Protection Orders. This will be undertaken as appropriate when Public Space Protection Orders are developed.

## 6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p><b>Providing a clean and safe environment;</b></p> <p>Poor physical environment and perceived antisocial behaviour are associated with fear of crime, which has significant detrimental effects on the health of a neighbourhood. Fear of crime and anti-social behaviour can lead to social exclusion within a community and could impact on community cohesion and resilience.</p>	David Edwards, Director of Environment and Shared Services
<b>Risk Management</b>	There are no known risks at this time beyond the implications highlighted in each of the areas contained in this section.	David Edwards, Director of Environment and Shared Services
<b>Financial</b>	<p>It is anticipated that implementation will be resourced from within existing budgets. There may also be additional legal costs and costs associated with the introduction of the individual PSPOs. These will be looked at on a case by case basis as they occur. The payment of fixed penalty notices within the new regime will generate a small income for the council. This will be pooled with the existing FPN income for initiatives such as litter and fouling and used to fund awareness campaigns and legal action as appropriate in the delivery of a Cleaner, Safer Maidstone.</p>	[Section 151 Officer & Finance Team]
<b>Staffing</b>	Training will be required for some officers and it is possible that there may be a need to review job descriptions for example for the management of Community Trigger reviews.	David Edwards Director of Environment and Shared Services & John Littlemore Head of Housing & Community Services
<b>Legal</b>	The Crime and Disorder Act 1998 places a duty upon a local authority to seek to prevent crime and disorder in its area in carrying out its duties. The Antisocial Behaviour, Crime and Policing Act 2014	[Legal Team]

	provides a new set of powers for tackling antisocial behaviour to the benefit of victims and our communities and provides a deterrent to perpetrators. The resource implications are uncertain as the volume of cases is currently unknown.	
<b>Equality Impact Needs Assessment</b>	Equality impact assessments will be completed for all new policies and changes to procedures.	Clare Wood, Policy & Information Officer
<b>Environmental/ Sustainable Development</b>	None	David Edwards, Director of Environment and Shared Services
<b>Community Safety</b>	It is difficult to predict at this stage what the impact of the new legislation will be in reality with regard to service provision. The Act supports and enhances the council's ability to deal effectively with ASB. The Act provides for clearer accountability from agencies.	Head of Housing & Community Services
<b>Human Rights Act</b>	The Act does give due consideration to human rights in terms of reinforcing the council's duties and that of its partners (responsible bodies) to respect and support the rights of individuals to private and family life.	David Edwards, Director of Environment and Shared Services
<b>Procurement</b>	None	[Head of Service & Section 151 Officer]
<b>Asset Management</b>	None	David Edwards, Director of Environment and Shared Services

## 7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix I: Members' Guide to Changes to Anti-Social Behaviour Legislation
- Appendix II: Kent Community Trigger and process map

## 8. BACKGROUND PAPERS

Detailed statutory guidance was issued in July 2014 and can be accessed at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf)