

Use of Anti-Social Behaviour Powers and the Suppression of Nuisances

Final Decision-Maker	Communities, Housing and Environment Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	John Littlemore
Classification	Public
Wards affected	All

Executive Summary

The Council provides a wide range of services through its Community Protection Team in order to meet its duties to reduce crime and disorder. The report proposes ways for improving engagement with Members by raising Member awareness; increasing Member dialogue; and improving Members' awareness of successes – with the aim of assisting officers in achieving the Council's strategic priorities within the resources available to the Council.

Purpose of Report

This report sets out the background and options following a Member's request to explore opportunities to increase Member-involvement in the prioritizing of tackling anti-social behaviour and suppressing nuisances.

This report makes the following recommendations to this Committee:

1. That the CHE Committee approves the recommendations set out in Paragraphs 3.1 – 3.3 of this report.

Timetable

Meeting	Date
Communities, Housing and Environment Committee	25 August 2020

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>The recommended approach will support all the priorities listed in the Strategic Plan.</p>	John Littlemore, Head of Communities and Housing
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>ASB and nuisance can disproportionately affect areas of deprivation. As noted in the report, a number of clients have complex needs including mental health. Supporting communities and individuals through our approach to ASB can assist in the delivery of the cross cutting objectives.</p>	John Littlemore, Head of Communities and Housing
Risk Management	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework.	John Littlemore, Head of Communities and Housing
Financial	The proposals set out in the recommendation are all within already approved budgetary headings.	[Section 151 Officer & Finance Team]
Staffing	The recommendations will be delivered within our current staffing resource.	John Littlemore, Head of

		Communities and Housing
Legal	<p>The Council has duties and powers under the Environmental Protection Act 1990, the Anti-Social Behaviour Crime and Policing Act 2014 and other legislation to tackle noise nuisance and anti-social behaviour.</p> <p>These duties and powers are discharged in accordance with the Council's Constitution. The recommendations in this report are within the powers and duties provided for by legislation and consistent with the scheme of delegations under the Council's Constitution.</p>	Head of Legal Services
Privacy and Data Protection	Accepting the recommendations will not increase the volume of data held by the Council. We will hold that data in line with our retention schedules.	Policy and Information Team
Equalities	<p>The recommendations do not propose a change in service therefore will not require an equalities impact assessment</p> <p>However, we recognise the diversity of our business client group and will ensure that the communication of the revised Policy is reflective of this.</p>	[Policy & Information Manager]
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	The recommendation will have a positive impact on Crime and Disorder.	John Littlemore, Head of Communities and Housing
Procurement	No implications identified	John Littlemore, Head of Communities and Housing

2. INTRODUCTION AND BACKGROUND

- 1.1 In June 2020, this Committee approved a Member's request to explore opportunities to increase Member-involvement in the prioritising of tackling anti-social behaviour and suppressing nuisances. There was also a request for greater Member engagement by undertaking a "call for blights" exercise. This would take the form of requesting Ward Councillors to put forward areas of concern that could then be considered by this Committee and for the Committee to receive a progress report at a future date e.g. annually.
- 1.2 The concerns expressed at the June meeting by Members of the Committee and visiting Ward Members highlighted that Members of the Committee were keen to better understand the powers available to the Council and how these are deployed in order to tackle ASB and Nuisance in particular.
- 1.3 These powers, in the main, are conferred by the Anti-Social Behaviour, Crime and Policing Act 2014. For reference, a report was provided to the Communities, Housing & Environment Committee in July 2015 scoping the range of powers that had been enacted at the time. In essence, the substantive powers within the Act are the Community Protection Notice and the Public Space Protection Order (PSPO).
- 1.4 The Home Office statutory guidance re-issued in December 2017 states that proposed restrictions under a PSPO should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.
- 1.5 The Local Government Association's own guidance on the topic states 'Councils will need to assess how certain behaviours are perceived, and their impact – both on the community broadly, and on its most vulnerable individuals. Some areas have included an additional test locally that the behaviour needs to be severe enough to cause alarm, harassment or distress. Collating evidence that illustrates the detrimental impact of particular activities will be important.'
- 1.6 Community Protection Notices are aimed at preventing unreasonable behaviour that is having a negative impact on the local community's quality of life. Any person aged 16 years or over can be issued with a notice, whether it is an individual or a business, and it will require the behaviour to stop and if necessary reasonable steps to be taken to ensure it is not repeated in the future.
- 1.7 Before issuing a CPN, the issuing body should give a written warning to the perpetrator setting out that if the antisocial behaviour persists a CPN will be issued. The amount of time allowed between the written warning and the issuing of the CPN is to be determined on a case-by-case basis.

- 1.8 The Council's Community Protection Team is authorised to issue Community Protection Warnings and Notices, as well as issuing fixed penalty notices (FPN) in relation to breaches of the PSPO.
- 1.9 The CPT is comprised of a Manager (reporting to the Head of Housing & Community Services), two Senior Community Protection Officers, four Community Protection Officers (CPO), two Assistant CPO and a Safer Communities Officer (which is currently being held vacant).

Strategic and Operational Delivery

- 1.10 The Community Protection Team covers a wide range of activity, from tackling serious organised crime to providing the Council's statutory functions linked to noise, pest control and nuisance. The Team also delivers specialist areas of work such as animal welfare, including the licensing function and tackling domestic abuse.
- 1.11 Having such a wide brief of responsibility and finite resources requires that the team's workload is clearly set out to enable the officers to be directed to where they can be most effective.
- 1.12 Direction is provided through corporate planning, for example the Council's Strategic Plan, and the statutory document – the Safer Maidstone Partnership's Strategic Plan. Members of this Committee are involved in the development of both documents, in particular the SMP's Community Safety Partnership Plan, which is then adopted by Council at its main meeting. These documents set the overarching priorities for the team.
- 1.13 As part of the team's workload is also reactionary, the team needs to have the capacity to be flexible enough to be able to respond to issues as they arise. Examples of this include dealing with unauthorised encampments when they occur; supporting the police when a serious incident happens; and supporting vulnerable individuals who come to the attention of the service through the Community Safety Vulnerabilities Group.
- 1.14 The proposed engagement with ward Members will provide a helpful enhancement to the intelligence gathering that is undertaken by the CPT in partnership with the police and other key agencies. However, this approach will need to align with the strategic priorities that are expressed in the statutory Plans mentioned above, as they are adopted in accordance with our constitution. Equally, operational prioritisation is best undertaken at an officer level, whilst having regard for the emerging issues proposed by Members.

Innovation

- 1.15 Maidstone's CPT is recognised as one of the most progressive and resourceful community safety teams in the County. The innovative and creative use of a range of legislation, particularly in relation to the use of Community Protection Notices, has seen a significant increase in partner engagement and best practice being replicated across the South East and beyond.

- 1.16 In the vast majority of the CPT's investigations, the officer's objective is to seek to modify a person's behaviour or reduce the impact. This requires a more nuanced approach when contrasted with a more process driven requirement. Many of the people who the CPT come into contact with, whether they are the alleged victim or alleged offender, have complex needs that require addressing in order to resolve the situation.
- 1.17 The CPT's approach is framed by the Council's Enforcement Policy and the officers' understanding of the legislation available. In addition, officers utilise the guidance provided by the Home Office and all the relevant case law associated with the 46 different statutes the officers are authorised under. Two recent Local Government Ombudsman Reports and an audit of the Noise Nuisance process found our officers decision making to be excellent in supporting the needs of our customers.
- 1.18 As well as undertaking mainstream nuisance investigations and regulatory compliance work, the CPT is engaged in a variety of activity that requires periods of evidence gathering and patient interjection. These activities cannot always be reported due to their sensitive nature. However, the Home Office has placed great emphasise on the positive opportunity that local authority staff can bring to bear when investigating and disrupting serious criminal activity, e.g. human trafficking; environmental crime; County Lines.
- 1.19 As a result of the above and the staff capacity, the resources do not allow for the deployment of "patrolling officers" from within the service. Officers respond to evidence provided and in most cases act retrospectively, unless they happen to be in an area and witness an offence, such as fouling or excessive noise. We also rely on our more mobile partners, such as Kent Police, BID Ambassadors and KCC Wardens to provide evidence of offences when appropriate.

The impact of Covid-19 on complainant behaviour

- 1.20 The pandemic has led to a substantial increase in service requests. The introduction of the lockdown regulations resulted in a dramatic lifestyle change for many people; with more time spent at home than had been experienced before. Increased financial or emotional pressures, home schooling and more walks in their local area have changed many people's lives and perspectives about where they live; and with change often comes fear and anxiety. A combination of these factors has led to some of our complainants exhibiting unrealistic expectations and/or impatience with our processes that are in place to support their needs.
- 1.21 The experiences expressed by Ward members at June's Committee meeting reflect the increase in service requests from the public, Ward Members and MP enquiries. The reporting function available through the Council's website provides the most efficient way for residents to report incidents. As an example, our online noise process allows customers to record the noise they are experiencing and automatically generates advisory letters when appropriate.

2. AVAILABLE OPTIONS

Proposed options

- 2.1 In order to address the concerns expressed by Members at the June Committee, it is proposed to: **Raise Member's Awareness** - a series of briefings sessions will be made available to all ward members before the end of the financial year. These will cover topics including:
- Noise and Nuisance investigations, including event noise
 - Tackling Anti-social Behaviour and the role of the District Contextual Safeguarding Meeting in protecting young people
 - Domestic Abuse services and the role of Domestic Abuse Champions
- 2.2 **Increase Member's dialogue** – officers will explore the opportunity to conduct frequent engagement sessions with Kent Police and key partners to discuss ASB, nuisance and concerns, giving consideration to:
- Creating "Ward Clusters" containing up to 4 wards, based on geography, urban or rural setting, demographics and concerns
 - Meeting twice a year with the Ward Members and Parish Chairs, as appropriate, for each cluster
 - Creating and agreeing collaborative plans to address local concerns, utilising an evidence-based approach, which could be collated and reported back to the CHE Committee on an annual basis
- 2.3 **Increase Member's awareness of successes** – officers will work to develop an improved communications strategy with our Communications Team to investigate the possibility of developing an online newsletter to share updates and information useful to members.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 The options outlined in 3.1 to 3.3 will provide a more collaborative platform for Ward members to understand and work with officers and partners more readily in tackling local issues.

4. RISK

- 4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. The author is satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 No consultation is considered necessary at this stage
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Officers will work with Democratic services and the Communications Teams to develop the initiatives outlined in section 3.1 to 3.3 and deliver in accordance with the timescales detailed in the report.
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7. REPORT APPENDICES

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

- Appendix 1: Community Protection Team Areas of Delivery
 - Appendix 2: Community Protection Team Service Requests
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