

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

15 MARCH 2016

REPORT OF THE MONITORING OFFICER

**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 AND
AMENDMENT TO THE SCHEME OF DELEGATION OF FUNCTIONS**

1. Purpose of Report

- 1.1 To seek Cabinet approval to amend the Scheme of Delegation of Functions as a result of the Home Offices' reform of anti-social behaviour powers.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 The Scheme of Delegation of Functions provides the authority for Cabinet Members and Officers to undertake their respective duties. The Scheme therefore directly affects the ability of the Authority to process the Corporate Improvement Plan and all Corporate Priorities.

3. Background

- 3.1 Anti-social behaviour is a broad term to describe the day-to-day incidents of crime, nuisance and disorder that make many people's lives a misery: from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords. The Home Office has reformed the anti-social behaviour powers to give professionals increased flexibility they need to deal with any given situation.

4. Current situation / proposal

- 4.1 The Anti-social Behaviour, Crime and Policing Act 2014 makes provision about anti-social behaviour, crime and disorder. The Act sets out the following 6 new tools for responsible bodies and responsible authorities:

Injunction

The injunction is a civil power made by the County Court which can be applied for by the Council in order to deal with anti-social individuals. The injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating. The Council can apply to the County Court for the injunction if two tests are met:

- causing nuisance and annoyance in residential setting and
- causing harassment, alarm or distress elsewhere.

In many cases before applying to the County Court there are informal measures which will be attempted. If the Injunction is made by the County Court and then breached, this is punishable as contempt of court.

Criminal Behaviour Order (CBO)

The CBO is available following conviction for any criminal offence in any criminal court. The Order is aimed at tackling the most serious and persistent offenders where their behaviour has brought them before a criminal court. The prosecution, which in some cases may be the Council, may apply for the CBO in the criminal court after the offender has been convicted. For a CBO to be made:

- the court must be satisfied, beyond reasonable doubt, that the offender has engaged in behaviour that caused, or was likely to cause, harassment, alarm or distress to any person: and
- that the court considers making the order will help in preventing the offender from engaging in such behaviour.

Breach of a CBO is a criminal offence with a maximum penalty of up to five years in custody.

Dispersal power

The dispersal power is a flexible power which the police (not the Council) can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to a local community. In areas where there are regular problems, the police should work with the Council to find sustainable long-term solutions.

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. In many areas, councils already take the lead in dealing with these kinds of issues and they will continue to be able to issue the new notice. If there are existing powers available to the Council under other legislation, these will in most cases be used before the CPN. The CPN is envisaged as a useful power in circumstances not already covered by legislation and there are various new situations where it may be considered. A CPN can be issued if the conduct of the individual, business or organisation is:

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

Before the Council can make a CPN there is a procedure set down by statute which must be obeyed and includes a warning.

Once issued, breach of a CPN is a criminal offence with a maximum penalty of up to a level 4 fine (currently £2500). Breach can be dealt with by issuing a Fixed Penalty Notice. Other orders can be requested upon breach such as paying for remedial work and forfeiture of items.

Public Spaces Protection Orders (PSPO)

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. Importantly they replace the old Designated Public Place Orders; Gating Orders and Dog Control Orders. These three old orders (where in existence) remain valid for 3 years from the 14th October 2014 at which point they are converted to PSPO's. PSPO's are only valid for 3 years and must, if they continue to be needed, be renewed every three years. The three old orders can be replaced by PSPO's earlier than the 14th October 2017 which may simply the enforcement landscape. Should this be proposed, a separate report will follow to deal with this issue. A PSPO can be issued if the Council are satisfied that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed

Before the Council can make a PSPO there is a procedure set down by statute which must be obeyed and includes consultation with various bodies.

Once issued, breach of a PSPO is a criminal offence with a maximum penalty of up to a level 3 fine (currently £1000). Breach can be dealt with by issuing a Fixed Penalty Notice.

Closure Power

The closure power is a fast, flexible power that can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. The power comes in two stages: the closure notice and the closure order which are intrinsically linked. The notice can be used by the Council and following the issuing of a notice, an application must be made to the Magistrates Court for a closure order, unless the closure notice has been cancelled.

Breach of a Closure Order is a criminal offence with a maximum penalty of up to six months in custody or an unlimited fine.

- 4.2 As a result of the Anti-social Behaviour, Crime and Policing Act 2014, it is proposed that the following insertion is made to the Scheme of Delegations at Scheme B2 as a function allocated to the Assistant Chief Executive, Legal and Regulatory:

2.64	To do anything which the Council has the power to do (including the power to serve any notice) that is necessary for the enforcement of any of the provisions contained within the Anti-social Behaviour, Crime and Policing Act 2014 with the exception of Public Spaces Protection Orders as specified in Part 4, Chapter 2 of the Act.
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- 4.3 It is further proposed that the Anti-social Behaviour, Crime and Policing Act 2014 be inserted into the list of enactments at Scheme B2 paragraph 2.58.

5. Effect upon Policy Framework & Procedure Rules

- 5.1 The Scheme of Delegation of Functions will require amendment as shown above.

6. Equality Impact Assessment

6.1 An Initial Screening EIA has been undertaken and there are no equality implications.

7. Financial Implications

7.1 There are no financial implications arising from this report.

8. Recommendation

It is recommended that Cabinet:

8.1 Note the content of the report and approve the amendments to the Scheme of Delegation of Functions as set out at paragraphs 4.2 and 4.3;

8.2 Note that a further report will be presented to Cabinet regarding Public Spaces Protection Orders.

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Background Documents

None