

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No. 7

meeting date: THURSDAY, 25 MAY 2017
title: ANTI-SOCIAL BEHAVIOUR CRIME AND POLICING ACT 2014
submitted by: CHIEF EXECUTIVE
principal author: HEATHER COAR, HEAD OF ENVIRONMENTAL HEALTH SERVICES

1 PURPOSE

1.1 To consider using powers outlined in the Anti-social Behaviour Crime and Policing Act 2014 which includes Community Protection Notices designed to tackle a range of anti-social behaviours, the issue of a Criminal Behaviour Order and to agree the sum for fixed penalty notices issued under the Act should the recommendations in this report be agreed.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives – To make people's lives safer and healthier.
- Corporate Priorities – To promote a healthier environmental and lifestyles.
- Other Considerations – N/A

2 BACKGROUND

2.1 The Anti-social Behaviour Crime and Policing Act 2014 (the '**Act**') received royal assent on the 13 March 2014, with the relevant provisions coming into force on the 20 October 2014. The Act introduced a new power to issue Community Protection Notices (CPNs) which help regulate a range of anti-social behaviours. Failure to comply with a CPN can result in a number of actions including the issue of a fixed penalty notice (FPN).

2.2 The Act also introduced Criminal Behaviour Orders (CBO) which is used on 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. A CBO replaces an Antisocial Behaviour Order (ASBO). In order for officers to be able to use these new powers it is necessary to update the constitution and formally amend the scheme of delegation to authorise the Head of Environmental Health Services.

2.3 In addition, the Council also must agree the sum payable should any fixed penalty notices be issued against breaches of CPNs also if any reduction for early payment or payment by instalment is allowable under certain circumstances.

3 ISSUES

3.1 The Community Protection Notice is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible. The Notice will direct the individual, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again.

- 3.2 The Notice is intended to replace current measures such as litter clearing notices, defacement removal notices and street litter control notices. It is not meant to replace the statutory nuisance regime – and where the behaviour is such as to amount to a statutory nuisance under section 79 of the Environmental Protection Act 1990 (EPA).
- 3.3 Prior to serving a CPN on a person or body the Council must issue a written warning to the offender stating that a CPN will be issued unless the specific anti-social behaviour ceases. CPNs can impose requirements to either; stop doing something, to do specific things or to take reasonable steps to achieve a specified result. If a CPN is breached the Council may take a number of different actions including issuing a fixed penalty notice but also prosecution or seizure of items used in the offence.
- 3.4 Section 2 of the Act states that bodies issuing CPNs must agree the amount payable for fixed penalty notices up to a maximum of £100 and may also introduce a reduction for early payment however in doing so it should consider the deterrent effect of the FPN. It is recommended that the amount is set at £100 payable within 14 calendar days and reduced to £75 if paid within 7 calendar days from the date of service of the FPN.
- 3.5 Any income derived from the payment of a FPN can be kept by the Council, but must be used to fund further work in the area of anti-social behaviour.
- 3.6 The Criminal Behaviour Order (CBO) is available on 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. CBOs include prohibitions to stop the anti-social behaviour, and may also include requirements to address the underlying causes of the offender's behaviour.
- 3.7 The court may make a CBO against an offender only on the application of the prosecution. 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.
- 3.8 The CBO replaces the Anti-social Behaviour Order (ASBO) on conviction and the Drinking Banning Order (DBO) on conviction. The main differences between the ASBO on conviction and the CBO are:
- The behaviour (first limb of the test for imposing an order) only need to cause or be likely to cause harassment, alarm or distress to any person (removing the 'not of the same household' requirement);
 - The 'necessity' test becomes a 'helpfulness' test (as with that for Football Banning Orders).
- 3.9 The court may impose requirements as well as prohibitions. For example they may prohibit the offender from doing anything described in the order (which might include a condition preventing specific acts which cause harassment, alarm or distress or

preparatory acts which the offending history shows are likely to lead to offences (for example the individual entering a defined area) or requires the offender to do anything described in the order (for example, attendance at a course to educate offenders on alcohol and its effects).

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications

- Resources - Provisions of the Act will be administered within existing budgets.
- Technical, Environmental and Legal - The powers, if adopted, will contribute towards the Council's corporate aims of enhancing local communities and protecting and enhancing the natural environment. In cases intended to be dealt with by this legislation the impact of antisocial behaviours can have both a significant impact on the cohesion of the local community they occur in and impact on the environment.
- Political – No implications identified.
- Reputation – The powers will build on the Council's reputation to deal with anti-social behaviour.
- Equality & Diversity – After considering each equality group no negative equality impacts have been identified should the recommendations of this report be agreed by Council. It should be noted however Children under 18 or vulnerable persons could be subject to a CPN or CBO. There is clear Crown Prosecution Service guidance on how to apply this legislation to youths which the Service will follow. In addition the draft enforcement policy considers equality matters.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Approve the following:

- The Council's scheme of delegation in the Constitution is amended to include that the Head of Environmental Health Services be given delegated authority to enforce the provisions of the Anti-social Behaviour Crime and Policing Act 2014.
- That the amount payable for Fixed Penalty Notices issued under the Act be set at £100 paid within 14 days, reducing to £75 if paid within 7 days.

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HEAD OF ENVIRONMENTAL HEALTH SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

The Anti-social Crime and Policing Act 2014.

Anti-social Crime and Policing Act 2014.

Statutory Guidance for front line professionals available from:

<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-anti-social-behaviour>

CPS guidance on the issue of a Criminal Behaviour Order. Available from;

http://www.cps.gov.uk/legal/a_to_c/criminal_behaviour_orders/#a27

For further information please ask for Heather Coar, extension 4466.

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