

Committee(s):	Date(s):
Port Health and Environmental Services - For decision Police Committee - For information Policy and Resources - For information Community And Children Services - For decision Safer City Partnership - For information Court of Common Council - For decision Licensing Committee - For information	18 November 2014 08 December 2014 10 December 2014 12 December 2014 12 January 2015 16 January 2015 21 January 2015
Subject: New Anti-social Behaviour, Crime and Policing Act 2014 – Delegated Powers	Public
Report of: Director of Built Environment	For Information
<p style="text-align: center;">Summary</p> <p>This report informs the Committee of the relevant provisions of the Anti-social Behaviour, Crime and Policing Act 2014.</p> <p>The Act replaces the various measures previously available to tackle anti-social behaviour within the Anti-social Behaviour Act 2003 with a new set of powers, intended to provide a simpler and more streamlined framework. It introduces new mechanisms with the aim of giving victims and local communities a greater say in the treatment of anti-social behaviour and low-level crime, and it strengthens the ability of landlords to terminate tenancies on grounds relating to anti-social behaviour.</p> <p>The reforms set out in Parts 1-6 of the Act are intended to ensure that professionals from a number of agencies dealing with a variety of anti-social behaviours have effective powers that are quick, practical and easy to use to provide better protection to victims and communities whilst acting as a deterrent to perpetrators. 19 powers in the previous act are replaced with 6 simpler and more flexible ones but their implementation will require effective and coordinated consideration by all the agencies involved. (Appendix 1). In setting out the new powers, the City Corporation will always to seek restorative solutions to issues and only use these powers as a last resort.</p> <p>In adopting the Anti-social Behaviour, Crime and Policing Act 2014, it will be necessary to amend the City's Scheme of Delegation and also require close and coordinated working with partner organisations.</p> <p>The long-standing position under the City Corporation's Constitution and Terms of Reference is that the promotion of byelaws is authorised by the Court of Common Council. Given that Public Space Protection Orders (PSPO's) are intended to be of a similar nature, and may concern issues which fall under the remit of several committees and therefore, it is not currently proposed that Court of Common Council delegate authority to make PSPO's. However, this can be kept under review.</p> <p>Members are asked to note the contents of this report and approve amendments to the Scheme of Delegation to enable authorised Officers, as detailed in recommendations and the amended Scheme, appendices 2</p>	

and 3, to fulfil the requirements of the Anti-social Behaviour, Crime and Policing Act 2014. Members are advised that the responsibilities pertaining to the Open Spaces have been addressed in a separate report.

Recommendations: That -

(i) the Court of Common Council delegate authority, for the certain areas of responsibility relating to the Anti-social Behaviour, Crime and Policing Act 2014, to the

1. Port Health and Environmental Services Committee and the Community and Children Services Committee, with responsibility for Housing Services, and that the Scheme of Delegation be amended accordingly.

(ii) That the Port Health and Environmental Services Committee and Community and Children Services Committee, for their respective areas of responsibility, delegate authority as follows:

1. the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services or their authorised Deputy be granted delegated authority to seek an Injunction to Prevent Nuisance and Annoyance in accordance with Part 1 of the Anti Social Behaviour, Crime and Policing Act 2014.
2. the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services, or their authorised Deputy, be granted delegated authority to apply for Closure Orders and to authorise their officers to issue Closure Notices and in accordance with Part 3 of the Anti-social Behaviour, Crime and Policing Act 2014.
3. the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services be granted delegated authority to authorise Officers to serve Community Protection Notices, and Fixed Penalty Notices in the event of a breach, in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.
4. that approval be granted to enable the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services to be able to designate Registered Social Landlords to issue Community Protection Notices , in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014; and
5. that approval also be granted to the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services to be able to authorise Police Community Support Officers and other Police staff to serve Community Protection Notices and Fixed Penalty Notices, in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.
6. that the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children

Services or their authorised Deputy be granted delegated authority to seek Criminal Behaviour Orders, in accordance with Part 2 of the Anti Social Behaviour, Crime and Policing Act 2014.

It is also recommended that:

7. That the Community Safety Team, within the Town Clerks Department be the 'Single Point of contact for the Community Trigger as required under the Act and the Safer City Partnership oversee/scrutinise any community triggers and appeals.
8. That the Police Committee, in partnership with the City Of London Police, be responsible for the production of a Community Remedies document.

Main Report

Background

1. The Anti Social Behaviour, Crime and Policing Act 2014 received Royal Assent on 13 March 2014 and came into effect on the 20th October 2014 (some parts being delayed until January 2015). The Act proposed a number of reforms to existing legislation and to put the victim at the heart of the response to anti social behaviour by providing professionals and organisations with greater flexibility to deal with any given situation. The implications of the Act, as they impact upon the remit of the Policy & Resources, Police, Housing Management and Almshouses, and the various Open Spaces Committees and Sub-committees have already been reported to those bodies.
2. The reforms set out in Parts 1-6 of the Act are intended to ensure that professionals have effective powers that are quick, practical and easy to use to provide better protection to victims and communities and act as a deterrent to perpetrators. 19 existing powers are replaced with 6 simpler and more flexible ones.
3. In setting out the new powers, this City of London Corporation will always to seek restorative solutions to issues and only use these powers as a last resort. This will mean that appropriate Service Units across the City Corporation and partners working with the people and communities affected by these powers must be engaged and involved in the decision making.
4. Attached to this report at Appendix 1 is a schematic which shows the old ASB powers (19) which will be replaced by the new powers (6). The new powers are:

Civil Injunctions to Prevent Nuisance and Annoyance.

5. The Injunction to Prevent Nuisance and Annoyance (IPNA) is a civil power which can be applied for to deal with anti social behaviour. It replaces six orders formerly available to local authorities/ the City and Police. An 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.

6. A number of agencies can apply for Civil Injunction. These include:
 - i. Local Authority/ The City Corporation
 - ii. Housing provider
 - iii. The Chief of Police for the local area
 - iv. The Chief Constable of the British Transport Police
 - v. Transport for London
 - vi. The Environment Agency
 - vii. NHS Protect
7. Anyone seeking to apply for an Injunction must have evidence (to the civil standard of proof – on the balance of probabilities) that the respondent is engaged in or threatened to engage in those activities set out below:
 - i. conduct that has caused, or is likely to cause harassment, alarm or distress to any person;
 - ii. conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises; or
 - iii. conduct capable of causing housing related nuisance or annoyance to any person.

Note: (ii) only applies where the injunction is applied for by a housing provider, local authority or Chief Officer of Police (iii) only applies where the injunction is applied for by a housing provider or local authority.

8. Unlike other proposals in the Act this process is applied through the County Court for persons over 18 and in the Youth Court for under 18's. Evidence and statements from witnesses will be required to support the application but will also vary depending upon the type of conduct which it is sought to restrict such as harassment or causing annoyance to the occupation of premises. It is clear that the latter would be of use to the authorities and to social housing providers. The procedure is indicated to be swift but a good deal of preparation will be required before going before the Court as well as ensuring an urgent date can be obtained.
9. Where any action is to be taken against a person under 18 years old in a Youth Court then the Youth Offending Team should be part of the decision making process.

Recommendation:

10. That the Director of Built Environment, Director of Markets and Consumer Protection and Director of Community and Children Services or their authorised Deputy be given delegated authority to seek an Injunction to Prevent Nuisance and Annoyance in accordance with Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014.

Public Spaces Protection Order

11. Public Spaces Protection Orders (PSPO's) may be made in relation to activities carried on (or likely to be carried on) in a public place, which are reasonably considered to have a detrimental effect on the quality of life in the locality. This effect must be persistent or continuing in nature,

and must be such as to make the activity unreasonable. The PSPO may restrict the activity through prohibition or the imposition of requirements, although these restrictions may not go beyond what is reasonable and justified in relation to the detrimental effect sought to be tackled.

12. Consultation with the police and community representatives must be undertaken before a PSPO is made. A PSPO will have effect for periods of up to three years, but may be renewed indefinitely for so long as it is considered necessary.
13. Breaching a PSPO is a criminal offence punishable on conviction by a level 3 fine (currently £1000). Alternatively a fixed penalty notice of up to £100 may be issued by a Constable or by an authorised officer of the authority which made the Order. While the Order is in force any local byelaws which apply to the same activity cease to have effect.
14. The long-standing position under the City Corporation's Constitution and Terms of Reference is that the promotion of byelaws is authorised by the Court of Common Council. Given that PSPO's are intended to be of a similar nature, and may concern issues which fall under the remit of several committees it is not currently proposed that Court of Common Council delegate authority to make PSPO's. However, this can be kept under review.

Closure Power

15. The Closure Power allows the Police or the City of London Corporation to quickly close premises which are being used, or likely to be used to commit nuisance or disorder. A Closure Notice is issued out of Court in the first instance. Flowing from this the Closure Order can be applied for through the Magistrates Court.
16. Both the City Corporation and City of London Police can issue a Closure Notice (CN) and guidance requires that it must be approved at an Inspector or above level for the Police or a suitably qualified and experienced Officer within local authority for those issuing CN's of 24 hours. Following the issue of a CN the legislation requires that a series of notifications must be undertaken once a CN has been served particularly if the intention is to seek a Closure Order (CO). The Magistrates Court is required to hear the application within 48 hours and this will require close working with the Court Service
17. In addition before serving a CN or seeking a CO the City Corporation and/or police must ensure that they consult widely including with the victim, community representatives other organisations and users of the premises under investigation. Record keeping and evidential matters will be a key consideration and an agreed procedure will need to be established with partner bodies.
18. A notice can close premises for up to 48 hours but cannot stop the owner or those who live there accessing the premises. An order can close premises up to 6 months and can restrict all access. Both the Notice and the Order can cover any land or any other place, whether enclosed or not including residential, business and licensed premises.
19. Breaching a Closure Order will be a criminal offence. Breaching a Notice can carry a custodial sentence of up to 3 months and breaching an

Order can result in 6 months in prison. Both carry an unlimited fine for residential and non-residential premises.

20. Prior to seeking a Closure Order, it will be important that appropriate service units in the City Corporation (e.g. Community and Children's Services who are responsible for Housing, where this relates to residential premises) are consulted.

Recommendation:

21. That the Director of the Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services, or their authorised Deputy, be granted delegated authority to apply for Closure Orders and to authorise their officers to issue Closure Notices and in accordance with Part 3 of the Anti-social Behaviour, Crime and Policing Act 2014

Community Protection Notice

22. A Community Protection Notice (CPN) is intended to deal with particular, on-going problems or nuisances which negatively affect the community's quality of life by targeting those responsible. These include graffiti, rubbish and noise. A CPN does not discharge the City 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 1990.
23. The test to be applied in issuing a Community Protection Notice is broad and focuses on the impact anti-social behaviour is having on victims and communities. A CPN can be issued by the Police, City of London Corporation authorised officers or Registered Social Landlords if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:
 - (i) is having a detrimental effect on the quality of life of those in the community;
 - (ii) is persistent or continuing in nature; and
 - (iii) is unreasonable.
24. Under the procedure outlined in the Guidance which accompanies the Act, a written warning has to be served followed by the CPN then at a later stage a Fixed Penalty Notice (FPN) may be issued for non-compliance. In addition, the CPN can be appealed within 21 days of service. All these processes need to be recorded and evidenced and the City and its partners will need to ensure that there is an effective monitoring arrangement in place because of the appeal process and potential for prosecution. Some form of 'gate keeping' arrangement may be required in order to avoid duplicate actions by partner organisations. Coordination may fall to the responsibility of the Community Safety Team within the Town Clerks department who have the remit of the Safer City Partnership.
25. Failure to comply with a CPN can result in one of the following sanctions:
 - i. Fixed Penalty Notice
 - ii. Remedial Action
 - iii. Remedial Orders

iv. Forfeiture Orders

v. Seizure

Recommendation:

26. That the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services be given delegated authority to authorise officers to serve Community Protection Notices and, Fixed Penalty Notices in the event of a breach, in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

Recommendation:

27. That approval be granted to enable the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services to be able to designate Registered Social Landlords to issue Community Protection Notices, in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014

Recommendation:

28. That approval also be granted to the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services to be able to authorise Police Community Support Officers and other Police staff to serve Community Protection Notices and Fixed Penalty Notices, in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

Criminal Behaviour Orders

29. Criminal Behaviour Orders may be issued following a conviction by the Criminal Courts. They are intended to rehabilitate offenders by tackling the underlying cause of the anti-social behaviour, such as misuse of drugs, and alcohol etc. For example, offenders may be obliged to attend alcohol/anger management courses etc. These are normally sought by Crown Prosecution Service but a Local Authority can also apply for these in cases of serious and persistent anti social behaviour and may occasionally be a useful adjunct to prosecution for criminal offences (e.g. persistent noise nuisance).

Recommendation:

30. that the Director of Built Environment, the Director of Markets and Consumer Protection and the Director of Community and Children Services or their authorised Deputy be granted delegated authority to seek Criminal Behaviour Orders, in accordance with Part 2 of the Anti Social Behaviour, Crime and Policing Act 2014.

Dispersal Powers

31. Police Dispersal Powers require a person committing, or likely to commit antisocial behaviour or crime or disorder, to leave an area for up to 48 hours.

Community Trigger

32. Anti-social behaviour must be persistent, be harmful or potentially harmful to an individual or a community, and a victim, not satisfied with authorities' responses to complaints, may request a review of any action taken. If three complaints about anti-social behaviour are received within

a 6 month period, upon request, the City is obliged to formally review the actions taken/planned with relevant Partners (Police, Housing Associations etc.) and inform the victim of the outcome.

33. This part of the law could impact on many Departments across the City Corporation and any partners. For example, the response to noise complaints, irresponsible dog owners, planning enforcement, open spaces management and housing matters, could all come under scrutiny.
34. If a 'Trigger' request is made, a formal review would have to be held and the case scrutinised. A multi-agency panel would ultimately review the case and make recommendations for action, for the City, the Community Safety Team within the Town Clerks Department will act as the single point of contact for the Community Trigger where they will coordinate any processes with other departments.
35. The Safer City Partnership and the Police Committee will provide oversight/scrutiny of the City Corporation's arrangements and the outcomes. All Community Trigger cases will be reported to the Safer City Partnership and the Police Committee who will confirm that the responses from the relevant agencies are appropriate and may make recommendations.
36. If an Appeal is made, a review will be carried out on behalf of the the decision making bodies and a senior officer/manager will be appointed to undertake the review on their behalf. Information on how to access the Community Trigger is already available on the City's website.

<http://www.cityoflondon.gov.uk/services/community-and-living/Pages/community-trigger.aspx>

Recommendation:

37. That the Community Safety Team, within the Town Clerks Department be the 'Single Point of contact for the Community Trigger as required under the Act and the Safer City Partnership and the Police Committee oversee/scrutinise any community triggers and appeals.

Community Remedy

38. This new power allows the Police to choose an alternative punitive/rehabilitation action against offenders, other than proceeding through the courts. The victim and perpetrator of the crime would be involved in deciding the reparation action required.
39. The Chairman of Police Committee and Community Safety Partnership in partnership with the City Of London Police will produce a Community Remedies document. This will contain a list of:
 - Restorative actions – achieving restitution/reparation for the victim
 - Punitive actions – reflecting the effect on the victim or the community
 - Rehabilitative actions – addressing the causes of the behaviour
 - All or any part of the above in combination

40. These are considered appropriate for those who have engaged in ASB, but whose actions do not merit proceedings through the criminal justice systems. Examples of actions that may be included in the community remedy document are as follows:
- A requirement to make a formal apology (oral or written)
 - A requirement to make good criminal damage
 - A requirement to sign an Acceptable Behaviour Contract
 - A requirement to take part in structured activities that are either educational or restorative
 - To take part in unpaid work for the benefit of the community
41. Corporation partners, appropriate Agencies and the Public will be consulted about these proposed remedies before the document is published.
42. The use of the Community Remedy will be restricted to Police Officers, PCSO's (if authorised by the Police Commissioner) and Investigating Officers (who are persons employed by a police force or by the Office of the PCC) who are authorised to offer and give conditional cautions or youth conditional cautions.

Conclusion

43. The provisions of the 2014 Act will give the City of London Corporation and its partner organisations a more effective means of tackling anti-social behaviour in certain areas if/ where it is prevalent. However there will be a need for an effectively coordinated monitoring process to be established with partner bodies and the requirement for a single point of contact within the City Corporation. It will be essential that all officers involved in these new process are effectively trained and that the additional workload is monitored in the first year of operation.

Corporate & Strategic Implications

44. The proposed changes to the Scheme of Delegations are intended to support the effective governance of the City of London Corporation and ensure that decision making is effective and transparent. The proposed amendments are set out in Appendices 2 and 3.

H.R. Implications

45. There are no envisaged HR implications as officers already have similar powers and this updates their powers.

Legal Implication

46. The Comptrollers and City Solicitor Department have been consulted on this report.

Financial Implications

47. No direct financial impact is envisaged at this stage.

Background Papers

The Anti-social Behaviour, Crime and Policing Act 2014 and Statutory Guidance Notes

Reports of the Remembrancer:

Anti-social Behaviour, Crime and Policing Bill 2014. Police Committee, 5 July 2013

Anti-social Behaviour, Crime and Policing Bill 2014. Policy and Resources, 25 July 2013

Anti-social Behaviour, Crime and Policing Act 2014. Epping Forest and Commons, 12 May 2014. Hampstead Heath, Highgate Wood and Queen's Park, 19 May 2014, Open Spaces and City Gardens, 2 June 2014, West Ham Park, 2 June 2014.

Anti-social Behaviour, Crime and Policing Act 2014. Housing Management and Almshouses Sub Committee, 25 September 2014.

Appendices

1. Appendix 1 - Diagram showing old and new powers
2. Appendix 2 - Scheme of Delegations (Ammended November 2014) PHES
3. Appendix 3 - Scheme of Delegations (Ammended November 2014) CCS

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Appendix 1

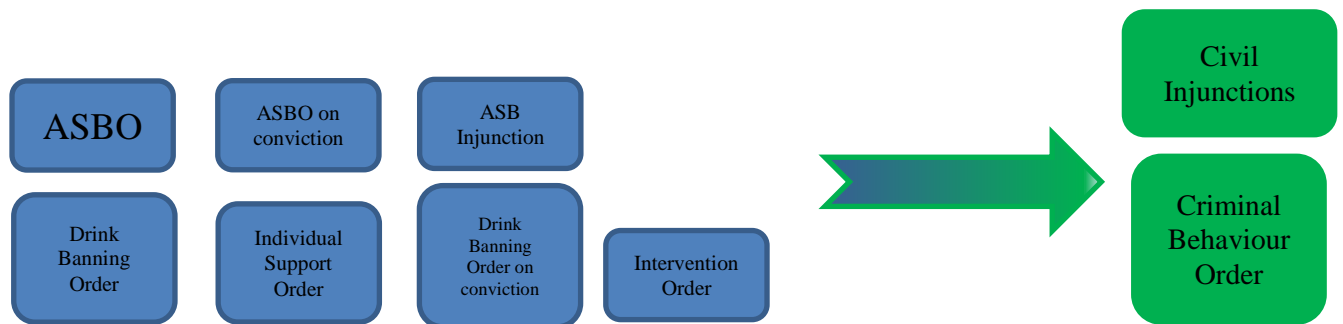
Anti-social Behaviour, Crime and Policing Act 2014

Changes in powers – 19 down to 6

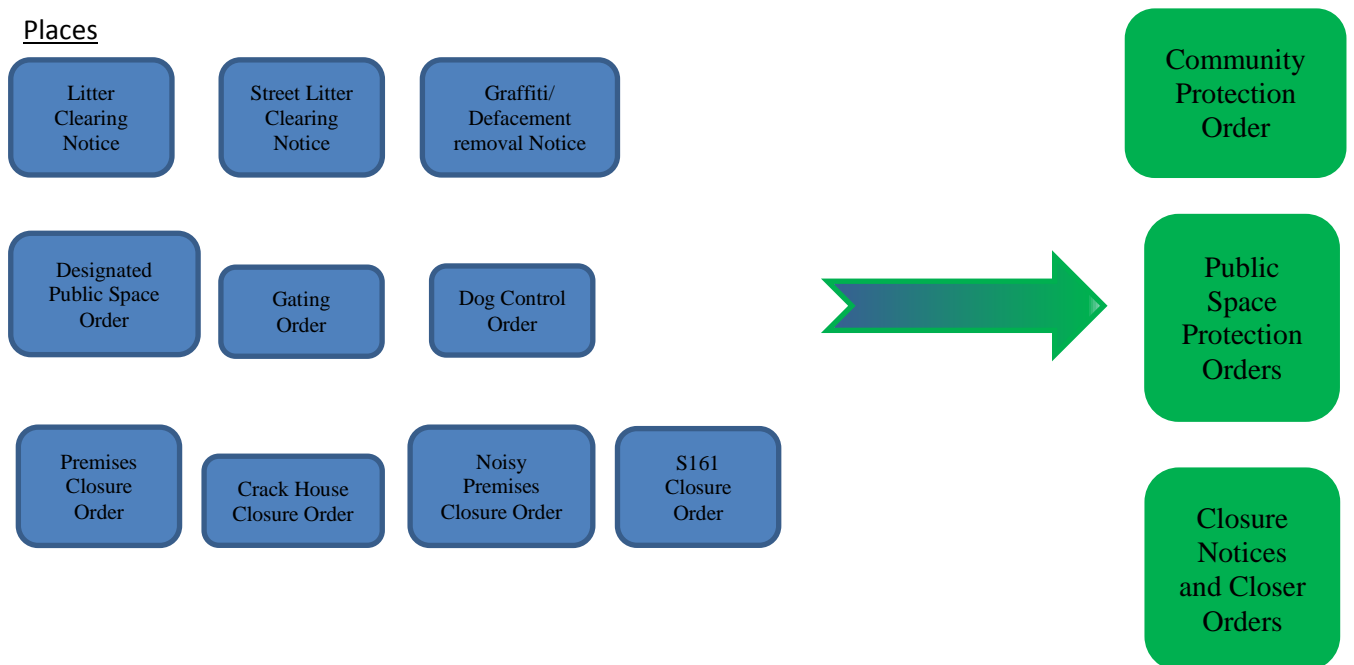
Old Powers

New Powers

People



Places



Police Powers

