

<b>Committee(s):</b>	<b>Date(s):</b>
Safer City Partnership	21 February 2018
<b>Subject:</b> Anti-Social Behaviour <ol style="list-style-type: none"> <li>1. New Statutory Guidance for Practitioners, December 2017 - Crime and Policing Act 2014</li> <li>2. City Anti-Social Behaviour Strategy and areas for improvement</li> </ol>	<b>Public</b>
<b>Report of:</b> Community Safety Team	<b>For Information</b>
<p style="text-align: center;"><b>Summary</b></p> <p>To advise SCP members on the new Statutory Guidance for practitioners updated in December 2017 – from the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>To advise members of ongoing work to develop an Anti-social behaviour strategy for the City of London</p> <p><b>Recommendation(s)</b></p> <p>Members are asked to note this report.</p>	

### **Update on the Anti-Social Behaviour, Crime and Policing Act 2014 - Statutory guidance for frontline practitioners, December 2017**

1. On 24th December 2017, the Home Office published a long awaited updated statutory guidance on the use of anti-social behaviour powers for frontline professionals. This report is to update all members on the new guidance drawing attention to the new or amended sections. The full text of the guidance can be found at <http://bit.ly/2DZjii6>
2. A new introduction has been written for the guidance to which the Home Office has added the following statements:

- a. 'The changes will help to ensure that there is greater focus on the impact of anti-social behaviour on victims and on their needs, ensuring that the relevant legal tests are met before the powers are used, underlining the importance of ensuring that the use of the powers are focused on specific behaviour that is anti-social or causing nuisance, and ensuring that the issues of local consultation, accountability and transparency are addressed'.
  - b. 'This updated guidance emphasises the importance of ensuring that the powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful or anti-social'.
3. The introduction to Part 2: More effective powers (page 17) has two sections added:
4. Vulnerability - This section reminds practitioners that the needs and circumstances of the most vulnerable must be considered when applying the powers and that any use of the powers must be compliant with the Human Rights Act 1998 and Equality Act 2010
5. Assessing the risk to victims - This section focuses on the need to assess the risk of harm to the victim and their potential vulnerability reminding practitioners that this risk assessment should be continuous and organised
6. For clarity, there are no changes made to the Community Remedy and Closure Power sections.

## **ASB CASE REVIEW/COMMUNITY TRIGGER**

7. Page 5. In discussing the role of Police and Crime Commissioners, the guidance now reminds readers that the PCC has responsibility for commissioning services for victims' services and they may want to ensure that local agencies consider how the victim is supported as part of the process.
8. Page 7. The updated guidance includes a new section, Setting the threshold: additional considerations, which focuses on the vulnerability of victims. It suggests that areas might use their risk assessment procedures as part of the decision on whether the threshold has been met. It also suggests that it might be beneficial for relevant bodies to adopt a common risk assessment matrix, or to have an agreed matrix for the purposes of ASB Case Review/Community Trigger.

9. The guidance also draws attention to the fact that repeated applications might be indicative of underlying vulnerability or unmet need and therefore where the threshold is not met, local agencies may wish to consider the possibility of hidden needs or risks which may require a response.
10. Page 8. In the section that deals with publicising the Community Trigger process, the guidance now says that areas should consider where the information is published and how accessible it is. It suggests that the title 'Community Trigger' in isolation may not be sufficient to alert victims to the purpose of the procedures. It makes recommendations about how this might be done more effectively.
11. Page 10. In a completely new section dealing with Sharing information, the guidance addresses the need for relevant bodies to share information for the purposes of carrying out a review. The section reminds local areas that a person who exercises a public function and possesses information must share it. The guidance sets out the only exceptions to this requirement. The issue of housing providers sharing information is addressed in this section.

## **Civil Injunction**

12. A new paragraph has been added to the section about when an injunction can be used to emphasise the use of Civil Injunctions in the cases of gang related activity.
13. In this same section, a paragraph has been added to advise practitioners that they should consider consulting with the local authority before making an application as they may hold information that is relevant and gives examples.

## **CRIMINAL BEHAVIOUR ORDER (CBO)**

14. Page 30. A new paragraph has been added to describe when a CBO can be used and draws attention to the use of CBO for gang members. It goes on to remind practitioners that the CBO does not require a link between the criminal behaviour that led to the offence and the anti-social behaviour to be addressed.
15. It goes on to say that, 'Agencies must make proportionate and reasonable judgements before applying for a CBO, and conditions of an order should not be designed to stop reasonable, trivial or benign behaviour that has not caused, or is unlikely to cause, harassment, alarm or distress to victims or communities.'
16. Page 31. A new paragraph has been added to draw attention to a guide published by the Crown Prosecution Service to assist police and local councils in

preparing CBO applications setting out the general principles to consider. The guidance goes on to stress that evidence must be provided in support of any positive requirements proposed including details of the information that is needed about courses to be attended.

## **COMMUNITY PROTECTION NOTICE (CPN)**

17. Page 40. A new sentence is included - 'Agencies should have sufficient evidence to satisfy themselves that the behaviour in question is genuinely having a detrimental effect on others' quality of life, in terms of the nuisance and harm that is being caused to others, rather than being a behaviour that others may just find annoying'.
18. A further new sentence added states, 'There is significant merit in involving the local council, who will have many years of experience in tackling environmental issues, when deciding whether or not to serve a Community Protection Notice. In addition, the issuing body should be satisfied that it has sufficient evidence that the activity in question is having a detrimental effect on others' quality of life, is persistent or continuing and is unreasonable.'
19. At the end of the paragraph about issuing CPNs it's a reminder about the need to have due regard to the Equality Act 2010.

## **PUBLIC SPACES PROTECTION ORDER (PSPO)**

20. Page 48. The following paragraph has been added to the purpose 'Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.'
21. The section that previously said the council must consult with whatever community representatives they think appropriate has been expanded to say that it is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all.
22. Page 49. This is a new section that has been added to the updated guidance and states that, before an order is made, the council must publish the draft order in

accordance with the regulations published by the Secretary of State and ensure that the draft order is available on its website.

23. It also goes on to say that as the effect of PSPOs is to restrict the behaviour of everybody using the public place, the close or direct involvement of elected members will help to ensure openness and accountability. This will be achieved, for example, where the decision is put to the Cabinet or Full Council.
24. Page 51. A new paragraph has been added which concentrates on the need for proportionality and suggests that the question to be asked is: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? It goes on to make suggestions about the issues that councils should consider when making an order.
25. A new section has been added which discusses the appropriateness of a PSPO to address issues caused by those who are homeless and rough sleeping.
26. Page 52. The section that deals with responsible dog ownership has been expanded to discuss the issues that a council needs to consider and to suggest prohibitions and requirements that might be used to address this matter. There is also new reference to Parish and Town Councils and their role in dog control.
27. Page 53. This new section reminds councils that they should be careful not to inadvertently restrict everyday sociability in public spaces. It reminds councils that in placing restrictions on those activities that young people may engage in too restrictively may force young people into spaces that are more likely to put them at risk. It finally reminds councils that those living in temporary accommodation may not be able to stay in their accommodation during the day and therefore might find themselves in public spaces for a more extended time.
28. Page 54. There is a final sentence in this section which reminds councils that any changes to an existing PSPO requires the council to undertake the necessary consultation.
29. Appeals. A new sentence has been added to this section that makes it clear that, as with all orders and powers, the making of a PSPO can be challenged by judicial review on public law grounds within three months of the decision or action subject to challenge. This is in addition to the right of appeal of an interested party to the High Court.

## **ABSOLUTE GROUND FOR POSSESSION**

30. Page 65/66. Notice requirements. This section has been expanded to provide more detail about the notice required to the tenant with three new paragraphs included at the top of page 66 which refer to secure or assured tenancies.

## **Anti-Social Behaviour City Strategy**

31. Anti-social behaviour (ASB) has been changing nationally since it was first mentioned in legislation. It used to be looked as minor problems that people find annoying and after the Pilkington case and other cases it changed to emphasize agencies response towards vulnerability and the impact to the victim.
32. With the changes and developments in crime now the government understand that ASB sometimes is the beginning of bigger crimes about to be committed or very often just what we can see as part of bigger crimes being committed, such is the case of modern slavery and child sexual exploitation.
33. With this in mind the Corporation's Community Safety Team is starting the work of writing a City Strategy that is up to date, relevant and takes into account the work of all the different agencies to stop and prevent ASB in the City.

### **Coordinating partnership tools and powers**

34. The 2014 Act gave the community safety partner agencies a new set of tools and powers that requires a good, timely flow of information from agency to agency in order to avoid duplication. The Community Safety Team in it's role of coordinating the work of the partners have seen the need to emphasize more partnership approaches, promote a wide problem-solving work rather than silo work and highlighting the need for agencies to share information.
35. Since the 2014 Act came into force there is a greater need for a more coordinated approach and clarity into everyone's duty's and responsibilities with regards to ASB. Where and how tools and power are recorded have been a concern that affects how all agencies in the City work.
36. For example, the Community Protection Notice (CPN) is a new provision given in the 2014 act to stop unreasonable behaviour affecting community's quality of life. This can be used to deal with ongoing problems or nuisances by targeting those responsible.
37. This tool can be used by local authorities (Environmental team, housing, street enforcement, rough sleepers services), the police and social landlords, either simultaneously or individually but advice is given to be careful in not to issue more than one CPN at the time, that means that all behaviours to be stopped need to be in one CPN issued to an individual or organisation.
38. All agencies need to have clear sight of an individual or business when they issue a CPN in order to stop duplication. This means that all agencies need to know

when an individual has been given a warning or agencies are preparing to issue a CPN.

39. We currently lack partnership information systems that allow us to share information in real time and effectively support agencies work. There are multiple teams in the City that can issue this notice however if one of them issues a notice the other agencies might not even be aware that this has been done.
40. In the interim, to help with this situation the Community Safety Team has offered to keep a record of this notices, so all teams can feed into one source, but this have proved not to be adequate. With the changes in technology, we can see that a better way to do this is through an I.T based solution in which we can input information from all the different teams to work more effectively.

### **Vulnerability**

41. In the city we welcome the new guidance greater emphasis in vulnerability and how we assess it, so agencies can work swiftly to reduce the risk from escalating and help the most vulnerable.
42. We have already started this work last year with all different partners and it has been welcome by all of them, but we will carry on with it. The community safety team arranged multi-agency training as well as setting up the City Community MARAC (CCM) to look at high risk cases and vulnerable people. The CCM has been highlighted as a good practice in the new 2014 act guidance and by the GLA.
43. Sharing and managing information is a sensitive matter for all agencies working with vulnerable people, therefore having the right technology that can allow us not only to share but to feel confident that we are doing it in the right way without putting someone at risk could make a big difference to the way we work.
44. With the new changes in legislation and Data protection we also need an up to date partnership information sharing protocol that allows all our teams to feel confident to share information to protect individuals specially when it comes to vulnerable people.

### **Analytical needs for strategy and information sharing obligations**

45. To understand, plan and identify optimum solutions to problems a good analytical support is required. When dealing with anti-social behaviour we are also talking about multiple sources of information from different agencies being pulled together to understand the bigger picture and find solutions that are meaningful in the long term.
46. This information as it comes from many different sources, such as different teams in the police, many teams at the corporation and other housing landlords such as Guinness needs to have ownership from an agency and the commitment of work from an analyst.

47. This is a very important resource into the planning and tackling ASB but the line of work of police analyst is to work with police issues as it is from corporation agencies looking at their own lines of work. An analyst that can collect that information from everyone and make it into one is an essential piece of work that no teams at this present time have capacity to do so.
48. The community Safety team it's the most suitable agency to do this type of work but doesn't have a permanent analyst who can carry out that duty. Having ownership of this type of work is difficult for any other agency as most of them need to have a reason why to collect information that is not for their teams to act.
49. In order for a Community Safety Partnership to operate successfully on an evidence-led basis, it is vital that data flows between agencies and is used to drive activity. This data is undoubtedly produced by analyst with a good understanding of crime and ASB is normally found in the police but as resources are scarce we need more clarity on who can carry out that work.
50. It's important to consider the work that underpins the City Police Plan as the legislation emphasize that due regard of the Community Safety Partnership priorities should be given within the police plan, some of the work done by an analyst would be used by the police and local authority.

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