

# MONMOUTHSHIRE COUNTY COUNCIL REPORT

**SUBJECT: ANTI – SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

**DIRECTORATE: CHIEF EXECUTIVES**

**MEETING: CABINET**

**Date to be considered: 7<sup>th</sup> September 2016**

**DIVISION/WARDS AFFECTED: All Wards**

## 1. PURPOSE:

1.1 To inform Cabinet of required changes to legal powers and to consider the Council's approach to discharging its responsibilities under the Anti-Social Behaviour, Crime and Policing Act 2014

## 2. RECOMMENDATIONS:

2.1 To amend the Council's constitution to give delegated authority to Officers for enforcement powers introduced under the Act as set out in Appendix 1. The Officers are the Head of Public Protection, the Head of Waste and Street Services and the Head of Governance, Engagement and Improvement.

2.2 To adopt the general approach to serving Fixed Penalty Notices under the provisions of the Act, as set out in the Authority's existing enforcement policy for dog fouling / littering provided in Appendix 2.

2.3 Agree the Fixed Penalty Notice enforcement charges set out in Appendix 3.

## 3. KEY ISSUES

3.1 The Anti-Social Behaviour, Crime and Policing Act 2014 came into force on 20 October 2014.

3.2 The Act has repealed a number of powers and introduced a new range of powers to help tackle anti-social behaviour affecting communities. This report is concerned with three specific areas:

- **Community Protection Notices (CPN)**
- **Public Spaces Protection Orders (PSPOs)**
- **Closure Notices**

3.3 **Community Protection Notices** replace Litter Clearing Notices, Street Litter Control Notices and Graffiti Removal Notices. They are intended to be able to stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life. They may be used to tackle a wide range of problem behaviours such as graffiti, litter and noise. The behaviour has to:

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

3.4 Prior to serving a CPN an initial warning letter must be sent. A CPN must specify the matter to be resolved and the timescale to achieve it. Non - compliance with a notice is a

criminal offence punishable in a magistrates' court by a fine of up to £2500 for individuals, or £20,000 for businesses. Alternatively a Fixed Penalty Notice may be served where a CPN has been breached to give the recipient the opportunity to discharge their liability to conviction for the offence. Remedial work in default of the notice may also be undertaken the cost of which can be recharged.

3.5 The potentially wide ranging application of CPN's means that there are a number of different teams in the Council that may find it appropriate to make use of them, specifically Environmental Health, Waste and Street Services, and Policy and Partnerships. This is reflected in the proposed delegation of powers set out in Appendix 1, Table B.

3.6 **Public Spaces Protection Orders** replace Designated Public Place Orders (DPPO's), Gating Orders and Dog Control Orders, with a three year subsistence period from the commencement of the Act for existing orders in place. There are currently three DPPO's in the County:

- One covering the whole of Monmouth town, including Chippenham Mead and St Thomas' Square, concerned with the consumption of alcohol where related to anti-social behaviour.
- Two in Abergavenny covering Bailey Park and parts of the town centre, again controlling consumption of alcohol related to anti- social behaviour.

These will automatically 'convert' to PSPOs on 20<sup>th</sup> October 2017 although the legislation does allow for these to be reviewed ahead of that transition to simplify the enforcement landscape.

3.7 PSPO's are designed to stop individuals or groups committing anti-social behaviour in a public space and can be potentially used to deal with a wider range of anti – social behaviour issues than current Orders. The behaviour being restricted has to:

- be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
- be persistent or continuing nature; and
- be unreasonable.

3.8 Before making a PSPO, the Council must consult with the local Police, the Police and Crime Commissioner and appropriate community representatives.

3.9 Breach of a PSPO is criminal offence punishable in a magistrates' court by a fine of up to £1000. Alternatively a fixed penalty notice may be served to give the recipient the opportunity to discharge their liability to conviction for the offence.

3.10 As for CPNs the potentially wide application of PSPOs may make their use appropriate to a number of sections in the Council including Environmental Health, Waste and Street Services and Policy and Partnerships.

3.11 **Closure Notices** may be issued ordering the closure of premises, the use of which has, or is likely to, result in disorder or nuisance to members of the public. They are intended to provide a fast, flexible power and can be issued for 24 or 48 hours in the first instance or otherwise extended from 24 hours to 48 hours. A notice may cover any land or premises including residential or business related and be issued by a designated Local Authority officer or the Police.

3.12 Breach of a Closure Notice is punishable by up to three months in prison or an unlimited fine.

3.13 The report proposes that the day to day enforcement powers in relation to Community Protection Notices and Public Spaces Protection Orders be delegated to appropriate Officers as set out in Appendix 1 Table B. These include the issue of Fixed Penalty Notices.

3.14 Any proposals for the making, extending, varying and discharging Public Space Protection Orders are to be submitted to Cabinet or Cabinet Member as appropriate for consideration and decision.

3.15 With regard to the issue of a Closure Notice the proposed designations for Officers, as provided in Appendix 1, Table B are:

- Up to 24 hours Head of Public Protection.
- Up to 48 hours Chief Executive Officer or Officers duly designated by the Chief Executive Officer

3.16 **Fixed Penalty Notices (FPNs)** are encouraged by Welsh Government as part of an effective and efficient enforcement approach for dealing with anti- social behaviour and environmental offences. In discharging any enforcement powers it is good regulatory practice for an authority to set out its approach in an 'enforcement policy'. The Authority has a Corporate Enforcement Policy which applies good regulatory principles in line with the Enforcement Concordat and has a specific policy for dog fouling/littering which includes for the service of FPN's.

3.17 The proposed approach for issuing FPN's for a breach of a CPN/ PSPO is to adopt the key principles of the existing fouling/littering policy which is provided in Appendix 2 and specifically:

- A distinction in the approach dependent upon the age of the offender.
  - For persons aged 18 or over a FPN to be issued to give the opportunity to discharge liability to conviction;
  - For persons under 18 the FPN to be commuted to a warning in the first instance. FPNs issued for second offences following a warning, with the intervention of the Council's Youth Offending Service to be invited prior to consideration of any case for prosecution.
- The FPN amount payable within 14 days to reduce if paid within 10 days to encourage early payment.
- Prosecution proceedings to be taken in cases of non-payment by an offender aged 18 or over.

3.18 The proposed FPN levels for a breach of a CPN/ PSPO is £100 to be paid within 14 days reducing to £75 if paid within 10 days, as set out in Appendix 3. This is an increase on the fouling / littering penalty levels (£75 reducing to £50 if paid within 10 days) but in accord with the other Local Authorities in Gwent for offences under the Act.

## 4 REASONS

4.1 To ensure fair, transparent, efficient and effective discharge of the Council's obligations under the Act.

## **5. RESOURCE IMPLICATIONS:**

5.1 None directly arising from the authorisation of Officers under this Act since additional workload will be absorbed within existing staff resources. Any revenue obtained from the payment of FPN's will be very limited which are to be punitive and not of significance in terms of income generation.

## **6. Future Generations Evaluation**

6.1 The Future Generations Evaluation, including equalities and sustainable impact assessments, is provided in Appendix 4. The revisions have a positive impact on these issues, for the reasons provided.

## **7. CONSULTEES:**

**SLT**  
**Cabinet Members**  
**Chairs of Select Committees**  
**Monitoring Officer and Head of Legal Services**  
**Head of Finance**  
**Head of Operations**  
**Youth Offending Team Manager (J Richards)**  
**Head of Waste and Street Services**  
**Head of Public Protection**  
**Head of Governance, Engagement and Improvement.**

## **8. BACKGROUND PAPERS:**

None.

## **9. AUTHOR:**

Huw Owen Principal Environmental Health Officer

### **CONTACT DETAILS:**

Tel: 01873 735433

[huwowen@monmouthshire.gov.uk](mailto:huwowen@monmouthshire.gov.uk)