

EXECUTIVE – 16 JULY 2020

WOKING COMMUNITY SAFETY ANTI SOCIAL BEHAVIOUR POLICY

Executive Summary

This report provides the Executive with the opportunity to agree the proposed new Anti Social Behaviour Policy and requests delegated powers from the Anti Social Behaviour Crime and Policing Act 2014 to appropriate officers to enable the implementation of these provisions.

Recommendations

The Executive is requested to:

RECOMMEND TO COUNCIL That

- (i) the Anti Social Behaviour Policy be adopted;
- (ii) authority be delegated to the Chief Executive to review the Anti Social Behaviour Policy from time to time, in consultation with the Portfolio Holder, to ensure that it is updated to reflect good practice, current legislation and case law;
- (iii) the level of Fixed Penalty Notice for a breach of a Community Protection Notice be set at £75.00 and reduced to £50.00 if payment is received within 14 days;
- (iv) authority be delegated to the Chief Executive to issue Closure Notices under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014;
- (v) authority be delegated to the Chief Executive to:-
 - a. issue Community Protection Notices;
 - b. authorise registered social landlords to issue Community Protection Notices;
 - c. issue Fixed Penalty Notices for breach of a Community Protection Notice;
 - d. authorise any persons to issue Community Protection Notices and issue Fixed Penalty Notices for breach of a Community Protection Notice;
 - e. take remedial action when a Community Protection Notice has not been complied with.

under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Woking Community Safety Anti Social Behaviour Policy

Reasons for Decision

Reason: This report requests the agreement of the new Anti Social Behaviour Policy to provide clear guidance to residents and agree suitable delegated powers to appropriate officers to implement the provisions of the Anti Social Behaviour, Crime and Policing Act 2014 to help manage and reduce anti social behaviour.

The item(s) above will need to be dealt with by way of a recommendation to Council.

Background Papers: [Anti-Social Behaviour, Crime and Policing Act 2014](#)
 [Home Office Guidance July 2014](#)

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1.0 Introduction

- 1.1 The Anti Social Behaviour, Crime and Policing Act 2014 (the Act) is the primary piece of legislation providing the Council with powers to tackle anti social behaviour (ASB).
- 1.2 The Act is designed to reduce crime and disorder and the impact of these on our communities. These flexible powers enable us to work more effectively with our key partners, such as Surrey Police and registered providers of housing, to tackle anti-social behaviour. Registered providers of housing can only be given delegated authority by applying to Woking Borough Council.
- 1.3 A new Anti Social Behaviour Policy has been written in order to provide clear guidance to the public as to what can be expected following any report of anti social behaviour, as well as standardising working practices when dealing with enforcement of offenders.

2.0 Background

- 2.1 The Anti Social Behaviour Policy (Policy) has been written to specifically address how we promote our response to anti social behaviour within the Borough, as well as how people can report to us directly any anti social behaviour they are experiencing. The Policy details a fair and transparent approach and strives to ensure the victim's considerations are taken into account at all times when addressing behaviours. A copy of the Policy can be found at Appendix 1 to this report.
- 2.2 The Policy shall be reviewed from time to time and updated in line with good practice, current legislation and case law.
- 2.3 The Act and relevant guidance are both large documents. However, these are the key powers available to the Council and Police to tackle anti social behaviour:
 - Civil Injunction
 - Criminal Behaviour Orders
 - Police Dispersal Powers
 - Community Protection Notices
 - Public Spaces Protection Order
 - Closure Notices
 - New Absolute Ground for Possession for ASB for secure and assured tenancies
 - Community Remedy (Police power in consultation with the Local Authority)
 - ASB Case review (Community Trigger)

Enforcement

- 2.4 The powers contained within the Act come with enforceable penalties and, in some cases, Woking Borough Council will be the lead authority. The Council is also the prosecuting authority for any breaches of public space protection orders and community protection notices. Both orders have sanctions for fixed penalty notices (up to £100) for breaches where a warning letter has previously been issued. It is recommended that the Council set the level of a fixed penalty notice for a breach of a Community Protection Notice at £75 and reduced to £50 if payment is received within 14 Days. The Council will receive all income from any enforcement activity, including fixed penalty notices.
- 2.5 Enforcement will only be considered once all requirements from the Act have been satisfied. Community Protection Warnings will be issued giving clear guidance as to timeframes in which we expect the conditions set are adhered to. Community Protection Warnings will only be issued if Woking Borough Council is satisfied that should they not be adhered to then we

Woking Community Safety Anti Social Behaviour Policy

have the ability to proceed to a full Community Protection Notice and the potential then for subsequent prosecution. As per the Community Protection Warning the Community Protection Notice must detail relevant timescales for the notice to be fulfilled. Only on breach of Community Protection Notice will there be a need to consider how the breach is prosecuted with Fixed Penalty Notices being the first consideration prior to any court summons.

Next Steps

- 2.6 Officers from the Council have been working with relevant internal services and partner agencies to develop and agree processes and procedures to form the new Policy document to ensure the consistent and transparent implementation of these powers. These arrangements will be put into place in the event that the Policy is adopted by Council.
- 2.7 Training in relation to best practice is ongoing and revisited when appropriate. Considerations are given to recognised organisations and consultancies in order to maintain staff competency.

3.0 Implications

Financial

- 3.1 It is anticipated that we can continue to implement the provisions of the Act within existing resources. However, if enforcement of the Act increases substantially, there may be some future additional legal costs associated with court proceedings. An application for costs payable by the defendant shall be made following successful Court proceedings.

Human Resource/Training and Development

- 3.2 There will be implications for front line staff on the implementation and enforcement of the powers both in terms of staff time and training. There may also be an impact on Legal Services if more anti social behaviour action occurs.

Community Safety

- 3.3 The Anti Social Behaviour, Crime and Policing Act 2014 provides tools and powers that will support our work around community safety and our Community Strategy priority of providing a clean, healthy and safe environment. It helps the Council fulfil its statutory duty to reduce crime and disorder. Having a clear and concise policy will assist the Community Safety Team to undertake this role and will allow victims to understand the steps the team shall take to address the issues.
- 3.4 The use of the ASB legislation will be monitored and reported in the quarterly Safer Woking Partnership reports which are routinely sent to Members, and will also be reported to the Community Safety Task Group.

Risk Management

- 3.5 None.

Sustainability

- 3.6 None.

Equalities

- 3.7 None.

Safeguarding

3.8 None.

REPORT ENDS

Anti Social Behaviour Policy – Community Safety

Anti social behaviour has a wide definition that incorporates many different behaviours, including those that would not meet a criminal threshold or a statutory nuisance. The impact that these behaviours can have on a community or an individual can be devastating. From an individual feeling targeted to a community losing faith in the services there to protect them the consequences in not challenging anti social behaviour can lead to long term lasting damage.

Evidence suggests that when anti social behaviour is challenged at an early stage and not be allowed to manifest over time the likelihood of the behaviour continuing is significantly reduced. Conversely if left unchallenged it is likely to escalate into behaviours that can cross into a criminal threshold.

The Anti Social Behaviour Crime and Policing Act 2014 (ASB C+P 2014) was introduced to allow local authorities, and where delegated Housing Associations, greater powers to work alongside the Police in addressing anti social behaviour. The definitions within the act encompass a variety of behaviours which could be considered as anti social and unacceptable in certain contexts. The incidents do not necessarily need to be criminal to be considered as anti social behaviour, nor do they have to be recorded with Police in order to be addressed.

Local authorities have previously relied on legislation such as Anti Social Behaviour Act 2003 in order to deal with reports they receive. The Anti Social Behaviour Crime and Police Act 2014 adds significant tools and powers to the existing legislation and also includes two new measures designed to empower victims of anti social behaviour:-

- **The Community Trigger – gives victims the ability to demand action, starting with a review of their case, where the locally defined threshold is met.**
- **The Community Remedy – gives victims a say in the out-of-court punishment of perpetrators for low-level crime and anti-social behaviour.**

Within the act, and particularly relevant to local authority functions that consider the use of enforcement action, is the introduction of Community Protection Warnings (CPW's) and Community Protection Notices (CPN's). These allow the issuer to highlight and identify behaviour that has been identified as ongoing, unreasonable and having a detrimental effect to those in the community.

Purpose

This Anti Social Behaviour Policy has been drafted in line with the following principles and aims to ensure that all victims of anti social behaviour can expect the following. All enforcement action that is deemed necessary will also be subject to the same principles.

- Is fair, accountable, consistent, proportionate and transparent.
- Is an effective use of resources through a risk based methodology.
- Improves protection for the community and businesses within.
- Reduces the regulatory burden on businesses.
- Actively seek to involve both the community and businesses in any resolution.

- Seek to involve both the community and businesses in any review and development of the policy.

Our Objectives

- Reduce anti social behaviour.
- Put victims of anti social behaviour at the heart of any resolution.
- Develop, review and update policies aimed at tackling anti social behaviour.
- Use all legislation available to tackle anti social behaviour where enforcement is necessary.
- To take a multi-agency approach to tackling anti social behaviour ensuring the right agency is dealing. To work alongside Police, Housing and Environmental Health to ensure consistency.
- Provide clear guidance around policy so that public expectation can be met at all times.
- Embrace best practise and be open to change when further guidance is published.

How to report anti social behaviour to Woking Borough Council

- Online via the online reporting mechanism
- Phone
- Email
- In person at the front counter
- Letter
- 3rd party – via local councillors, Surrey County councillors, MP etc.

**** ALL REPORTS WILL BE HANDLED IN THE STRICTEST OF CONFIDENCE ****

What to expect once a complaint has been made

On receipt of a complaint via any means, you should expect a response within 2 working days (weekends and bank holidays will not be included towards this deadline). The initial response may simply be an acknowledgement of the complaint with no further update and where necessary a unique case reference number will be assigned to you.

If required, an information pack will be sent out which may contain practical advice on how to deal with anti social behaviour, information sheets, diary sheets or any other relevant paperwork. Within the pack will be guidance on how to complete any paperwork that may need to be returned along with a pre-paid envelope in order to return them.

When incident/diary sheets are returned, an assessment will be made in regards to the information provided which will then determine the next actions undertaken, in accordance to the level of the complaint, until such time as the case is closed.

If there is no receipt of requested materials within either 4 weeks, or an agreed timescale (later of the two options) then an assessment as to why this is will be made. If there are concerns that they have not been returned due to a fear of reprisal, language barrier or any other recognised reason, then you will be contacted again in order to establish what your expectations are and what it is we can offer to assist. If no return has been made and it is believed this is a result of no further incidents

occurring you can expect your case to be closed and a letter sent to you with this justification. Details will be contained within the letter explaining a route to appeal this decision.

If your case is closed and you experience a repeat of any anti social behaviour from the same source your case will be reopened and this will be taken into consideration when looking at options available. If the anti social behaviour is from a different source you can expect to go through the same process as detailed above.

Timescales in which your complaint is dealt with will vary significantly, especially when the behaviour experienced is infrequent but ongoing. The complexity of the case may also result in the length before satisfactory resolution is met being longer than possibly anticipated.

Interventions

- Verbal warnings
- Warning letters
- Office interviews
- Referrals to other agencies, such as mental health or substance abuse services
- Mediation
- Acceptable Behaviour Contracts/Agreements (ABC's and ABA's)
- Referrals to other departments within the local authority for consideration of powers specific to that department (eg housing may consider Notice of Seeking Possession – NOSP)
- Referrals to Police for immediate enforcement action.

Legal remedies

- Community Protection Warning/Notice and any subsequent enforcement following a breach of Community Protection Notice (eg fine, remedial action, remedial order, forfeiture order, seizure and criminal behaviour order)
- Civil Injunction
- Court undertakings
- Any other enforcement action specific to another department within Woking Borough Council

Partnership Working

We work with partner agencies wherever necessary to achieve the best possible outcome for the victim. This may mean your case is discussed in a multi-agency forum with all relevant parties present. If this is the case, we will inform you of this prior to any discussions taking place.

Other examples where partnership work may be applicable include, but are not limited to:-

- Nuisance premises / partial house closures
- Dispersal Orders
- Animal nuisance and Abatement Notices under the Environmental Protection Act 1990
- Joint Action Group (JAG)
- Community Harm and Risk Management Meeting(CHaRMM)
- Surrey ASB Task Group
- Surrey Probation Service – Community Payback Scheme

