



Scrutiny Review of Public Spaces Protection Orders and Community Protection Notices

To: Scrutiny Management Team

Date of meeting – 26 January 2016

Notes of Tim Horsley, Community Protection Coordinator

Background

The Anti-Social Behaviour Crime and Policing Act received the Royal Assent on 13 March 2014 and includes sections on:

- A victim focused revision and simplification of the tools and powers used by anti-social behaviour practitioners; a case review process and a community remedy process intended to widen the involvement of victims in restorative justice
- Changes to grounds for possession relating to participation in riots and to involvement in serious crime and anti-social behaviour
- Widening of the application of dangerous dogs legislation and provisions affecting the operation of dog control orders
- Changes to the legislation involving firearms; child sexual exploitation; forced marriage and extradition
- Changes to the governance arrangements for the Police and Police bodies
- Minor changes relating to the administration of the criminal justice system

The impact for the Council relates to the ASB part of the legislation which replaces nineteen existing powers targeted at types of ASB with more generic powers targeted at holistic problem solving:

- A new Civil Injunction power available to the Police, the Council and housing providers for use with both adults and young people
- A new post-conviction power to impose both prohibitions and requirements
- A new generic power for the Police to require individuals to stay out of an area to prevent them engaging in ASB
- A new community power available to the Police, the Council and designated housing providers to deal with a range of behaviours that might adversely affect the quality of life
- A public spaces power available to the Council only to prevent ASB in an area
- A closure power available to the Police and Council to give residents respite from serious ASB
- An ASB case review process available to members of the public, in certain circumstances, where they feel appropriate action has not been taken by those they have reported the ASB to and their partners

The majority of the new powers including the Community Protection Notice (CPN) and Public Spaces Protection Orders (PSPO) commenced in October 2014 with the Civil Injunction following on in March 2015. Authority to issue CPN warnings and serve CPNs is delegated to the Corporate Director. Authority to agree a PSPO is delegated to the Council's Area Committees.

It should be noted that the overwhelming majority of cases dealt with by the Community Protection Team, Environmental Crime Team, Environmental Protection, Parks and Licensing Enforcement are resolved through early intervention and negotiation rather than recourse to the use of legal powers. Although there are heightened expectations and new opportunities resulting from the new powers they are no substitute for good case management which is recognised in the government's statutory guidance to the new powers.

Public Space Protection Orders

PSPOs are available to the district council only and replace Gating Orders, bringing that power to the district council from the county council, Dog Control Orders and Designated Public Place Orders (alcohol control zones) with a single power that can deal with a broad range of ASB targeted at a geographic area rather than individuals. They are aimed at dealing with persistent and unreasonable nuisance that is detrimental to the quality of life of residents in the designated area for up to three years when they must be reviewed before the period can be extended. The PSPO could be used for a shorter period as a targeted intervention in the way the S.30 (ASB Act 2003) dispersal power was used, however this has not been needed in Pendle since 2005.

PSPOs may be used for public spaces, parks, alleys, rural areas and communal areas to deal with issues such as dogs, alcohol and noise. They are also seen as devolving the power to make by-laws from the government to local authorities, however there are detailed provisions with regard to controlling alcohol consumption and restricting rights of access.

Transition arrangements mean the orders currently in place in Pendle will remain, however they will need to be reviewed every three years and will become PSPOs after the first review. It also means current single issue orders could be broadened to include other types of ASB that meet the conduct test. The Council has the option of reviewing its current orders and converting them to PSPOs at any time and in the interests of consistency. This process is currently in hand for dog control orders with alcohol control zones and gating orders to follow.

Consultation and publicity requirements are included in the legislation and focus on signage and information on the Council's website. It should be noted that appeal on the terms of a PSPO is to the High Court; a potentially costly process for the Council.

The Police can enforce a PSPO, however the Council will need to consider the enforcement role of the Environmental Crime and ASB Teams for this power. Breach is a criminal offence subject to a fixed penalty notice or a fine on conviction.

Community Protection Notices

CPNs replace little used and complex Litter Clearing Notices, Street Litter Control Notices and Defacement Removal Notices. The purpose of a CPN is to stop a person, business or

organisation committing ASB which is persistent, unreasonable and detrimental to the quality of life of those in the locality.

CPNs can be issued by the Council, Police and a person designated by the Council such as officers of housing providers. Lancashire Constabulary has declined to take up use of the power although it is committed to supporting local authorities. Housing providers in Pendle have adopted a similar approach.

A CPN must be preceded by a written warning informing the perpetrator of the behaviour of what they are doing, asking them to stop, advising them of the effect of not stopping and allowing a reasonable time to remedy the situation. The CPN can require the perpetrator to stop doing something, to do something to prevent the ASB or to take reasonable steps to prevent the ASB.

Like PSPOs CPNs can address a wide range of behaviours and types of ASB in a single notice and include positive requirements as well as prohibitions. As a result it is open to the Council to include public order type behaviour in a notice that might primarily be aimed at general nuisance, noise nuisance and property condition. The need for agencies to work in partnership and share information will increase as a result and Pendle benefits from the existing co-location and partnership arrangements such as ASBRAC and PCSO tasking.

The Council may carry out remedial work in default at a reasonable cost either where the work is on land open to the air or, subject to a notice being served and with the consent of both the owner and the occupier, work within premises. Breach is a criminal offence subject to a fixed penalty notice or a fine on conviction. On conviction the court may also order remedial action is taken to put right the breach or forfeiture of equipment or goods involved in the breach.

Activity so far

For the record, the Council has obtained one interim civil injunction which successfully dealt with an unauthorised encampment in one of the Council's parks. The subject of the injunction is now in settled accommodation. Further injunctions relating to bans from licensed premises are currently under consideration.

One Community Trigger has been received relating to nuisance in one of our town centres. The issues raised in terms of service delivery were resolved with the service user and she continues to receive support through the Anti Social Behaviour Risk Assessment Conference (ASBRAC) process.

The September round of Area Committees and the December Executive received reports regarding a single PSPO to replace the existing dog control orders and to enforce a ban on dogs and on smoking in children's play areas and multi use games areas. The proposal is currently out to public consultation with a view to the PSPO being in place from April. The reports also set out a timetable for the following two years to introduce individual PSPOs for the Council's eleven parks.

In addition, over the next two years, the Council will need to review and convert its five town centre Designated Public Place Orders and Gating Orders to PSPOs. The review of the former, which give police officers discretionary powers to require a person to stop drinking and confiscate alcohol or containers of alcohol in public places, will give Members

the opportunity to consider the impact of other town centre nuisances such as smoking on the doorsteps of public houses.

Work on PSPOs also includes requests for alley gating of which two are currently under investigation to see if they meet the conduct test for a PSPO.

Table 1 below sets out the entirety of work undertaken so far under the ASBCPA 2014. The greater detail is around the seventy cases so far taken up under the Community Protection banner.

To date 21 warnings have been issued and six of these have moved on to full CPNs. Of these, two have been breached with one resulting in a Fixed Penalty Notice and the other deferred pending enforcement action by Lancashire County Council. Seven of the 21 actions have been fully complied with and 12 are being monitored for compliance.

The nature of the issue leading to investigation and enforcement are increasingly varied. Action has been particularly supportive of work around dog control and vehicle nuisance. Action around the condition of land and property can be more problematic in particular with regard to ownership and the cost of work to put issues right.

There is a significant area of work on-going involving garage businesses that use the streets around their business as garage forecourts.

Table 1 – Anti Social Behaviour, Crime and Policing Act 2014 Actions

Community Trigger		
	Resolved	1
	Under investigation	0
Civil Injunction		
	Interim	1
	Full	0
	Pending	4
Closure		
	Notice	0
	Order	0
	Pending	1
Public Spaces Protection Order		
	In place	0
	In consultation	1
	Planned	16
	Under investigation	3
Community Protection		
Action	Fixed Penalty Notice	1
	In breach pending prosecution	1
	Under Notice	2
	Resolved after Notice	2
	Warning issued	11
	Resolved after warning	4
	Under investigation	29
	Resolved before warning	11
	Pending	9

Type	Dog Control	18
	Property condition	18
	Condition of land	10
	Garage business nuisance	6
	Caravans	2
	Public nuisance	8
	Vehicle nuisance	8

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Background Papers:

1. PSPO report to the Executive 10 December 2015