

AGENDA ITEM

REPORT TO CABINET

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Access and Communities and Community Safety – Lead Cabinet Member – Councillor Steve Nelson

Anti-Social Behaviour, Crime and Policing Act 2014 – Scheme of delegation

1. Summary

The purpose of this report is to seek Cabinet approval to amend the Council's scheme of delegation to enable the relevant provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 to be enforced.

The report also seeks approval of the fixed penalty fees for non-compliance with a Community Protection Notice and a Public Spaces Protection Order including a maximum fee and discounted fee for early payment.

2. Recommendations

1. Cabinet approves the proposed changes to the Scheme of Delegation
2. Cabinet approves the proposed fixed penalty fees as set out in this report.

3. Reasons for the Recommendations/Decision(s)

The Anti-Social Behaviour, Crime and Policing Act (2014) provides new powers to local authorities and their partners, and places a number of statutory obligations on councils when responding to incidents of anti-social behaviour (ASB). The key changes outlined in the Act have been discussed at length at the Safer Stockton Partnership and at a Members Policy Briefing in October 2014.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

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RECOMMENDATIONS

1. Cabinet approves the proposed changes to the Scheme of Delegation
2. Cabinet approves the proposed fixed penalty fees as set out in this report.

DETAIL

1. ASB is defined as "someone acting in a manner that has caused, or is likely to cause, harassment, alarm or distress to one or more persons not of the same household".
2. The (national) Government pledged they would review the way ASB is dealt with via new legislation. The resulting Anti-Social Behaviour, Crime and Policing Act 2014 came into effect from 20th October 2014 and replaces current ASB legislation, placing new duties on local authorities, including aspects of the Crime and Disorder Act 1998 and Anti-Social Behaviour Act (2003).
3. Below is a brief summary of the new provisions detailed within the Act, a copy of the members briefing note issued in October 2014 is attached (see appendix 1.)
 - The provision for a civil injunction for ASB (replacing the ASBO)
 - The provision for a Criminal Behaviour Order on conviction to prevent behaviour which causes harassment, alarm or distress
 - A Dispersal power for police to disperse people causing or likely to cause harassment, alarm or distress or likely to cause crime or disorder in a specified area and not return for up to 48 hours

- New powers to deal with community protection and makes provision for Community Protection Notices (CPN), Public Space Protection Orders (PSPOs) and to close premises associated with nuisance or distress.
 - Provision for possession of homes on ASB grounds (by RSLs)
 - The requirement of Local Authorities to establish a 'Community Trigger'
 - Amended powers under the Dangerous Dogs Act (1991).
4. The Council's Community Safety and Security and Environmental Health teams have delegated authority to carry out the statutory obligations outlined above. All of the above obligations are supported by the Law and Democracy team, particularly in relation to enforcement and civil proceedings.
 5. Prior to the implementation of the new powers, it was agreed through the Safer Stockton Partnership that existing thresholds and procedures for dealing with both environmental and anti-social issues would remain in place. It was felt that previous powers have been used effectively and with full co-operation of partners. This approach fits with the new arrangements and will ensure that we continue to use the powers in the most responsible and effective manner.
 6. For all cases of anti-social behaviour, the existing Joint Action Groups (JAGs) and Problem Solving Group (PSG) which is made up of officers from Community Safety, SBC Legal, Youth Offending Team, Police and Housing Providers, will continue to meet on a monthly basis to discuss cases and agree on joint action.
 7. All staff involved in the application of the new powers will receive training and ongoing support in their application.

FIXED PENALTY NOTICES

8. The Act enables the Council to issue a Fixed Penalty Notice for offences involving a breach of a Community Protection Notice or a Public Spaces Protection Order in order to discharge a liability to conviction. Fixed penalties will only be offered where it is considered appropriate to do so and in any case in line with the council's adopted Enforcement Policy.

Subject to the FPN being paid in full within 14 days, the recipient is not liable to prosecution by the council for the relevant offence. If the FPN remains unpaid after the 14 days, the offender will normally be prosecuted by the Council in line with the council's adopted Enforcement Policy.

The maximum penalty that can be imposed is £100 and this must be paid within 14 days of service of the FPN. However, it is possible to impose a lesser penalty for early payment and the local authority can decide their penalty in the absence of statutory guidance.

The following Fixed Penalty amounts are proposed:

- Payment of FPN within 7 days of issue £70
- Payment of FPN within 14 days of issue £100

FINANCIAL IMPLICATIONS

9. There are no specific financial implications or commitments required at this stage as a result of this report. However, it is important to note that the new powers could lead to an increase in workloads for existing Council staff which will be managed within existing resources. There is also the potential for an increase in legal costs associated with the application process for orders and any subsequent breaches.

LEGAL IMPLICATIONS

10. The Anti-Social Behaviour, Crime and Policing Act 2014 places statutory duties on and give powers to local authorities in challenging ASB in the community.

The application of any enforcement powers under the Act will also take into account any statutory guidance/regulations and will reflect the requirements of the Act and Council's associated policies.

The proposed additions to the council's scheme of delegation give clarity and legal certainty in terms of who is able to exercise the various powers within the Act which fall within the remit of the Council (see appendix 2.)

RISK ASSESSMENT

11. The implementation of the Anti-Social Crime and Policing Act is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Safer Communities – The Anti-Social Crime and Policing Action 2014 provides a range of powers for frontline officers to deal with community safety issues. The Act also provides members of the public with the opportunity to hold agencies to account and highlight additional community safety concerns.

EQUALITIES IMPACT ASSESSMENT

- This report is not subject to an Equality Impact Assessment because there are no associated impact assessments for this legislation. Each individual case will be considered in line with the legislation and assessed on a case by case basis.

CONSULTATION INCLUDING WARD/COUNCILLORS

All Ward Councillors

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Background Papers

Ward(s) and Ward Councillors: