

**WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE – 07/07/2015**

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**Title:**

**ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**

**[Portfolio Holder: Cllr Kevin Deanus]  
[Wards Affected: All]**

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**Summary and purpose:**

The Anti-Social Behaviour, Crime and Policing Act 2014 contains provisions which came into force on 20 October 2014 and which change how the Council deals with anti-social behaviour.

The purpose of this report is to provide the Executive with an overview of the powers contained in the 2014 Act, and for the Executive to make recommendations to the Council to amend the Scheme of Delegation in order to facilitate use of these powers.

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**How this report relates to the Council's Corporate Priorities:**

This report supports the corporate priority of **Understanding Residents' Needs**, with the 2014 Act focusing on victims as the centre of any response to anti-social behaviour. This report also supports the **Environment** corporate priority, by providing powers to ensure a clean, attractive and safe environment within the Borough.

**Financial Implications:**

There are no financial implications directly arising from this report. Use of the powers would be met from within existing Services budgets, and any implementation that required additional budget resource would be brought back to the Executive for approval.

**Legal Implications:**

The 2014 Act provides the Council with new powers to deal with anti-social behaviour, and the required amendments to the Scheme of Delegation will ensure that Officers are appropriately authorised to exercise those powers. Use of the powers may lead to a need for related legal action by the Council, and the Legal Services team is able to support the Services involved with such action and/or advice. It should be noted that there will be no need to amend the job descriptions of any Officers in order to accommodate use of the new powers.

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## Introduction

1. The Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) brings in new provisions and powers relating to anti-social behaviour which aim to focus the response to anti-social behaviour on the needs of victims and empower communities to get involved in tackling anti-social behaviour. The Act aims to ensure professionals have access to fast, effective powers to protect the public, and speed up the eviction of the most anti-social tenants.
2. The Act consolidates the nineteen pre-existing anti-social behaviour powers into six more flexible powers. Two of those powers, the ‘community trigger’ and ‘community remedy’, have been introduced in order to focus the response to anti-social behaviour on the needs of victims. The six new powers came into effect on 20 October 2014, and officers need to be able to exercise the powers available to them under the Act in order to best address any anti-social behaviour issues within the Borough.

## Rationalisation of Existing Powers

3. **Criminal Behaviour Orders** – The new Criminal Behaviour Order is available on conviction for any criminal offence, whether or not it involves anti-social behaviour. The CBO intended to tackle serious and persistent offenders whose behaviour has brought them before a criminal court. Although CBOs will primarily be applied for by the Crown Prosecution Service, the Council could also apply if it is pursuing a criminal matter through the courts (e.g. criminal breaches of Planning legislation; benefit fraud; environmental crime). The CBO can include both prohibitions and positive requirements.
4. **Civil Injunction** – The Civil Injunction can be applied for where the perpetrator has not been convicted of a criminal offence. It can be used to deal with a wide range of behaviour, and in serious cases to exclude a perpetrator from the home. Injunctions can be applied for ‘without notice,’ being given to the perpetrator in exceptional circumstances to stop serious harm to victims.
5. **Community Protection Notice** – This is intended to deal with particular, ongoing problems or nuisances which negatively affect the community’s quality of life by targeting the person responsible. The CPN replaces a number of existing notices (Litter Clearing Notice, Street Litter Control Notice and the Defacement Removal Notice).
6. **Public Spaces Protection Order** – This is designed to stop individuals or groups committing anti-social behaviour in a public space. It is intended to deal with a particular nuisance in a particular area which negatively affects the community’s quality of life. The order is only issued by the Council after consultation with relevant bodies, and the Council must reasonably believe that the behaviour warrants restrictions being implemented. The behaviour must be on-going or persistent (or there must be a reasonable belief that the future behaviour will be on-going or persistent). The restrictions set by the

Council can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times.

7. The Public Spaces Protection Order replaces the Designated Public Place Order, Gating Orders, and Dog Control Orders.
8. **Closure power** – This replaces the Premises Closure Order, the Crack House Closure Order, the Noisy Premises Closure Order and the Closure Order. The power allows the Council to quickly close premises which are being used, or likely to be used, to commit nuisance or disorder.
9. **New absolute grounds for possession** – This has been introduced to speed up the possession process in cases where crime or anti-social behaviour has already been proven by another court. The existing processes are often lengthy, expensive and prolong the suffering of witnesses and the community. The new absolute grounds for possession are intended for use in the most serious of cases and this power is available to the Council as a social landlord.
10. **Community Trigger** – This is newly-introduced by the Act and gives victims and communities the right to request a review of their anti-social behaviour complaints to the Council. If a Community Trigger meets the defined threshold, a case review will be undertaken by the Safer Waverley Partnership. Councillors are able to submit a Community Trigger on behalf of individuals or community groups.

### **Scheme of Delegation**

11. The Council's Scheme of Delegation to Officers currently includes delegations in respect of the existing powers that the Act has replaced. As such, the Scheme of Delegation now needs to be updated. Annexe 1 sets out those existing delegations that will need to be either amended or deleted in light of the changes brought about by the Act. An all-encompassing delegation which reflects the new, more flexible, powers under the Act will be required and is set out in the recommendation.

### **Future Actions**

12. Once a revised set of delegations is in place, Officers will consider which of the powers they might seek to employ in delivering and supporting their services. This will include consideration of any potential financial and resource implications, together with consideration of any policies and internal processes that would be required to support the use of those powers. These will be the subject of future reports to the Executive.

### **Conclusion**

13. The Anti-Social Behaviour, Crime and Policing Act 2014 replaces a number of existing powers available to the Council to tackle anti-social behaviour. Other new powers, such as the new absolute grounds for possession, seek to

improve processes already used by the Council. The introduction of the new Community Trigger gives victims a greater say in how the Council and other partners manage anti-social behaviour problems

14. The Council's ability to use the powers will be reliant on having an agreed and up-to-date Scheme of Delegation which allows the Council to respond effectively to incidents of anti-social behaviour, and to reassure the community that the Council is able to utilise its full range of powers when presented with such issues.

### **Recommendation**

It is recommended to the Council that:

1. the Scheme of Delegation be amended as set out in Annexe 1 to this report;
2. the Head of Housing Operations, Head of Environmental Services, Environmental Health Manager and Head of Community Services and Major Projects be authorised to exercise the Council's functions and enforcement powers under the Anti-Social Behaviour, Crime and Policing Act 2014, including:
  - (i) securing civil injunctions;
  - (ii) issuing closure notices and securing closure orders;
  - (iii) issuing community protection notices;
  - (iv) implementing public space protection orders; and
  - (v) appointing authorised officers; and
3. the Executive Director be authorised to extend a closure notice to 48 hours.

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### **Background Papers**

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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