

WIRRAL COUNCIL

CABINET

9 OCTOBER 2014

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| SUBJECT: | ANTI-SOCIAL BEHAVIOUR, CRIME & POLICING ACT 2014 UPDATE AND PROPOSED AMENDMENTS TO THE SCHEME OF DELEGATION TO OFFICERS |
| WARD/S AFFECTED: | ALL WARDS |
| REPORT OF: | CHIEF EXECUTIVE |
| RESPONSIBLE PORTFOLIO HOLDER: | COUNCILLOR GEORGE DAVIES NEIGHBOURHOODS, HOUSING & ENGAGEMENT |
| KEY DECISION? | NO |

1.0 EXECUTIVE SUMMARY

1.1 This report provides a summary of the key implications of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and details proposed amendments to the Scheme of Non-Executive Delegation of Functions to Officers within the Council’s Constitution to enable enforcement powers under the Act to be exercised.

2.0 BACKGROUND

2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 received Royal Assent on 13 March 2014. It aims to put victims at the heart of the response to anti-social behaviour and give practitioners greater flexibility to deal with issues as they arise. Other measures in the Act relate to dangerous dogs, forced marriages and firearms and policing standards in England and Wales. Statutory Guidance was provided by the Home Office in late July 2014.

2.2 The Act seeks to rationalise the existing suite of tools and powers to tackle anti-social behaviour, reducing nineteen existing remedies to six; this transition is set out in Appendix 1. The provisions in relation to anti-social behaviour come into force on 20 October 2014. The effect of these changes is to focus on the impact of the behaviour on the victim rather than on the nature of the behaviour e.g. Litter Clearing Notices and Graffiti/Defacement Removal Notices are being replaced by Community Protection Notices which do not relate to specific types of behaviour but are focussed on the impact on the local community’s quality of life.

2.3 Whilst the government has sought to reduce bureaucracy by minimising the requirements for consultation, there is a need at a local level to ensure that action is co-ordinated across services and agencies and information and intelligence

shared; to reduce duplication, ensure the most effective action is taken at a time of decreasing resources and see that victims receive a swift and effective response. As such, consultation is taking place with a range of relevant Council services and partner agencies and organisations in relation to the local implementation and operation of this legislation. Through this consultation process a multi-agency operational handbook (protocol) for practitioners is being developed, which will seek to set out agreed standards for local liaison in relation to the use of the six new powers, levels of authorisation and the sharing of information. This includes the identification of Council officers that require authorisation/designation by the Council to execute these powers.

- 2.4 The Scheme of Non-Executive Delegation of Functions to Officers within the Council's Constitution therefore requires amendment to ensure that Wirral Council can properly seek to utilise all of the powers and duties conferred by the Act.
- 2.5 The proposed amendments to the Scheme of Non-Executive Delegation of Functions to Officers are set out below and in detail at Appendix 2. The proposed amendments to the current Scheme are both italicised and in bold within Appendix 2.
 - 2.5.1 The words "issue and" to be inserted between "...the" and "service..." in clause (1) of Schedule 4A Part 2 at page 99.
 - 2.5.2 The words "and orders" to be inserted between "...notices" and ", the appointment off..." in clause (1) of Schedule 4A Part 2 at page 99.
 - 2.5.3 Anti-Social Behaviour Crime and Policing Act 2014 to be included within the list of legislation in clause (1) of Schedule 4A Part 2 at page 99.
 - 2.5.4 Add the words "or for breaching any notice or order" to clause (6) of Schedule 4A Part 2 at page 103.
 - 2.5.5 Insert a new clause (15) of Schedule 4A Part 2 at page 103 to read "(15) Authorise relevant officers throughout the Council to issue Community Protection Notices for leaving litter and other related matters affecting the quality of life of persons in Wirral"
 - 2.5.6 Renumber the existing clause (15) of Schedule 4A Part 2 at page 103 to "(16)".
 - 2.5.7 Insert a new sub clause (xxv) under the existing clause (15) (see 2.5.6 above) of Schedule 4A Part 2 at page 105 to read "(xxv) Authorise relevant officers throughout the Council to issue and enforce Community Protection Notices and to enforce Public Spaces Protection Orders"
 - 2.5.8 Renumber the existing clause (16) of Schedule 4A Part 2 at page 105 to "(17)" and change the post name from 'Director of Technical Services' to "Head of Environment and Regulation (or his nominee)".
 - 2.5.9 In the section entitled "in respect of Planning and related matters" of Schedule 4A Part 2 at page 110 there will be inserted a new sub clause (16)

under clause (b) to read “(16) To exercise all the powers and duties under Parts 1-6 of the Anti-Social Behaviour, Crime and Policing Act 2014 save for the issue or extension of a Closure Notice to 48 hours where such power(s) shall be exercised by the Strategic Director for Environment and Regeneration (or his authorised nominee).”

3.0 RELEVANT RISKS

- 3.1 Failure to implement these amendments will result in delays in implementation locally of a number of provisions within the Act related to anti-social behaviour. This could have negative implications for quality of life and community safety.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The Council is a duty to address anti-social behaviour and utilise legal powers available to it.

5.0 CONSULTATION

- 5.1 No consultation is required in relation to the proposed changes to the Scheme of Delegation.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are no such implications arising.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 7.1 It is envisaged that the discharge of powers and duties that the Act will be met by exiting staff (and any proposed future restructures, if any) and currently approved budgets. For example, additional costs of Fixed Penalty Notice books.

- 7.2 This cost may be offset through the payment of Fixed Penalty Notices issued by employees and/or agents of the Council and by Merseyside Police, which are processed by the Council as the only permissible recipient of payment set out within the Act.

- 7.3 In order to maximise the Council’s ability to tackle anti-social behaviour more effectively across the borough, officers of other local agencies may be designated by the Council to issue Fixed Penalty Notices. In doing so it may be that in respect of any Fixed Penalty Notice payments received as a result of Notices issued by such officers, there may need to be a transfer of such payments (less any administrative expenses incurred by the Council) to these agencies.

8.0 LEGAL IMPLICATIONS

- 8.1 The legal implications are set out in the main body of the report.

9.0 EQUALITIES IMPLICATIONS

- 9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

The impact was reviewed by the Government as it passed through the legislative process. The EIA can be found here:
<https://www.gov.uk/government/publications/anti-social-behaviour-crime-and-policing-bill-overarching-documents--2>

10.0 CARBON REDUCTION IMPLICATIONS

10.1 This report has no carbon reduction implications.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 The execution of this legislation will help to reduce anti-social behaviour and improve community safety.

12.0 RECOMMENDATION/S

That Cabinet:

12.1 Notes the update on the Anti-social Behaviour, Crime and Policing Act 2014 as set out in this report; and

12.2 Recommends that Council approves the proposed changes to the Council's Scheme of Non-Executive Delegation of Functions to Officers within the Constitution as set out in Appendix 2 to this report.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 To ensure the effective implementation of the Anti-Social Behaviour, Crime & Policing Act 2014.

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REFERENCE MATERIAL

Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers.

Statutory guidance for frontline professionals. Home Office. July 2014.

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|------------------------|-------------|
| None | |