



**Cabinet**  
14 April 2015

**Report from the  
Chief Operating Officer**

**ASB Crime and Policing Act 2014: Delegation of Functions  
to Exercise the Powers Available under the 2014 Act**

## **1. Summary**

- 1.1. New legislation rationalising the tools and powers available to partnerships became enacted on 20 October 2014. The new Act replaced nineteen pre-existing measures with six new measures for tackling anti-social behaviour. The Act has introduced simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities.
- 1.2. The powers are available to various bodies such as Local Authorities, the Police and Registered Housing Providers.
- 1.3. Use of some of the powers requires authorisation by officers of an appropriate grade.
- 1.4. Most of the powers contained in the act came into force on 20 October 2014. However, the enactment of others has only recently occurred.

## **2. Recommendations**

- 2.1. That the Cabinet:
- 2.2. Note the contents of this report.
- 2.3. Delegate authority to the Chief Operating Officer and to the Operational Director, Community Services to exercise and to delegate to officers at an appropriate grade the following functions under the Anti-Social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") ;
  - 2.3.1. issuing Community Protection Notices on behalf of the Council;
  - 2.3.2. issuing Closure Notices on behalf of the Council for up to 48 hours;
  - 2.3.3. applying for to the Court for Closure Orders in consultation with the Chief Legal Officer;

- 2.3.4. applying to the Court for Criminal Behaviour Orders in consultation with the Chief Legal Officer and requesting the Police/Crown Prosecution Service to apply for Criminal Behaviour Orders;
- 2.3.5. issuing fixed penalty notices for breach of any Community Protection Notice or Public Space Prohibition Order;
- 2.4. Delegate authority to the Chief Operating Officer and the Strategic Director, Regeneration and Growth as the designated officers of the Chief Executive to issue a Closure Notice under the 2014 Act on behalf of the Council for up to 48 hours; and to the Head of Community Safety and Emergency Planning and as the designated officer of the Chief Executive to issue a Closure Notice for up to 24 hours.
- 2.5. Delegate authority to the Chief Operating Officer, Operational Director, Community Services, and Strategic Director, Regeneration and Growth to exercise and to delegate to officers at an appropriate grade the function of authorising the issuing of court proceedings for civil injunctions under the 2014 Act on behalf of the Council in consultation with the Chief Legal Officer;
- 2.6. Delegate authority to the Chief Operating Officer in consultation with the Lead Member for Stronger Communities for the function of making Public Spaces Protection Orders under the 2014 Act and for this arrangement to be reviewed after one year.
- 2.7 Approve the Council's Community Trigger Protocol as set out in Appendix 3 of this report
- 2.8 Set the amount of Fixed Penalties relating to Fixed Penalty Notices issued under Section 52 and 68 of the 2014 Act at £75 (discounted to £50 if paid within 14 days).
- 2.9 Approve the implementation and use of the additional mandatory ground for possession of secure tenancies where the Council is the landlord.

### **3. Detail**

- 3.1. The Anti-Social Behaviour, Crime and Policing Act 2014 included several new and revised powers to tackle anti-social behaviour. The relevant powers as they affect the Council are described in the table at Appendix 1.
- 3.2. The powers will mainly be authorised and used by officers in a way that is similar to the use of existing powers. The key differences are explained in Appendix 1 and set out in detail in the legal implications section of this report.

3.3. The new powers are summarised below:

### **3.4. Civil Injunctions**

3.4.1. A Civil Injunction is an order made by the Court which places restrictions and requirements on people to address their anti-social behaviour. A breach of an injunction is contempt of court which may result in a fine or imprisonment. Civil Injunctions replace Anti-Social Behaviour Injunctions (ASBIs) and Anti-Social Behaviour Orders (ASBOs) and the application process will be similar.

3.4.2. An ASBI could only be granted against an adult, but Civil Injunctions may also be granted, by the Youth Court, against children who are 10-17 years old. It is a requirement that the applicant (which could be the Council) must consult with the Youth Offending Team prior to making the application. Breach of a Civil Injunction by a minor may result in a Supervision Order or, depending on the severity or extent of the breach, a Detention order of up to 3 months for 14-17 year olds.

3.4.3. Civil Injunctions may also contain positive prohibitions. These are requirements to help the offender address the underlying cause of their behaviour; for example, addressing a substance misuse issue for treatment or attending a college course. Organisations requiring positive prohibitions must be aware that they are responsible for funding them if accepted by a court.

3.4.4. In Brent it is likely that stand-alone Civil Injunctions will be used sparingly. In 2014-15 we successfully applied for one ASBI and did not issue a single ASBO. The costs involved in making legal applications for stand-alone ASBOs were prohibitive and usually result in the council finding alternative means to manage behaviours.

### **3.5. Criminal Behaviour Orders**

3.5.1. A Criminal Behaviour Order (CBO) is issued by a criminal court against a person who has been convicted of an offence and engaged in persistent anti-social behaviour (not necessarily linked to the offence). Breach of a CBO is a criminal offence. The prosecutor can ask the court to make an order after the offender has been convicted. In most cases the prosecutor will be the Crown Prosecution Service but it could also be the Council (e.g. prosecution for breaching a noise abatement notice). The Council can ask the prosecutor to apply for a CBO. The CBO sets out prohibitions and positive requirements to stop anti-social behaviour and address underlying causes. As with Civil Injunctions, any positive prohibitions must be funded

by the applying organisation, and providers must be consulted with in advance.

3.5.2. CBOs can also be sought against Children aged 10-17 but it is a statutory requirement that the prosecutor must “find out the views” of the Youth Offending Team (not merely “consult” them) before making the application.

3.5.3. In partnership with the police we will make significant use of CBOs. In 2014-15 we issued 36 CRASBOs/CBOs. As these orders are made post-conviction there is no significant additional cost to the police or council. CBOs would generally be applied for by Metropolitan Police ASB officers in consultation, where relevant, with Brent Community Safety Team.

### **3.6. Dispersal Power**

3.6.1. This is a police power and has no direct legal implications for the Council, although the police may consult the Council on its use. We have an agreement with Brent Police that they will inform us on the planned use of dispersal powers as and when required.

3.6.2. In Brent Dispersal Powers are used to counter likely ASB in specific locations. They are most commonly used in support of event days at Wembley Stadium. In 2014-15 Dispersal Powers were used on 12 occasions.

### **3.7. Community Protection Notice**

3.7.1. A Community Protection Notice (CPN) can be issued by the Council to a person aged 16 or over, or a business or organisation, to stop them from committing anti-social behaviour which spoils the community’s quality of life. An appropriate written warning must be given prior to issuing a CPN. It can be used to tackle issues such as noise, rubbish and animal nuisance where existing powers, such as those under the Environmental Protection Act 1990 (EPA), are not appropriate or applicable to the situation.

3.7.2. Breaching a CPN is a criminal offence. Potentially therefore a CPN has the effect of creating a criminal offence, without the oversight of the court, for behaviour which otherwise would not be criminal. This is a significant legal implication for the Council. The CPN must therefore only be used in appropriate circumstances and consideration must be given to the appropriate level of officer who should be authorised to issue them.

- 3.7.3. Breaches can be dealt with by way of serving a Fixed Penalty Notice or by prosecution in the Magistrates Court. The Council can also take remedial action to carry out works in default to remedy the breach (such as clearing a garden of rubbish) and recharge the cost to the offender.
- 3.7.4. The Home Office has issued an Information Note suggesting that CPNs could be used to address the issue of Japanese Knotweed and other invasive non-native plants. The notice could be used to require someone to control or prevent the growth of Japanese Knotweed or other plants that are capable of causing serious problems to communities. Further work is needed to define the Council's roles and responsibilities on tackling Japanese Knotweed and other invasive plants.
- 3.7.5. The Home Office made it clear in *'Reform of anti-social behaviour powers: Statutory guidance for frontline professionals'* that local authorities can, if they wish, designate the power to issue CPNs and FPNs to specified housing providers in their area. An Order by the Secretary of State (under section 53 (4) of the Act) has been made. This Order, the Anti-social Behaviour (Authorised Persons) Order 2015 sets out that a local authority can designate a housing provider to issue CPNs and FPNs under Part 4, Chapter 1, of the Act. It is recommended that the Cabinet delegate authority to the Strategic Director, Regeneration and Growth to designate housing providers to issue Community Protection Notices and Fixed Penalty Notices. Authority will be delegated once Registered Providers of Housing have signed an agreed protocol for the use of Community Protection Notices.

### **3.8. Public Space Protection Order**

- 3.8.1. A Public Space Protection Order (PSPO) may be made by the Council but only after consultation with the Police, Mayor's Office for Policing and Crime and any other relevant bodies, groups or individuals (such as community leaders or users of a particular area/facility). A PSPO can be made by the Council if it is satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those on the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justified the restrictions imposed.

- 3.8.2. The order places restrictions and/or requirements on people using the area covered by the PSPO. These can be blanket restrictions or targeted at

particular groups (such as dog walkers), or apply at certain times. The maximum duration of a PSPO is three years.

3.8.3. Breach of a PSPO is a criminal offence. PSPOs replace Designated Public Place Orders (DPPOs), orders made under the Criminal Justice and Police Act 2001 which concern the misuse of alcohol. The existing borough-wide DPPO prohibiting the anti-social consumption of alcohol in a public place will expire in October 2017, though can be extended for a further three years should the council agree.

3.8.4. In section 75 of the Anti-Social Behaviour and Policing Act 2014, it states that the repeal or amendment by the 2014 Act of provisions about dog control orders do not apply to anything done in connection with a current dog control order. Thus, the current dog control orders that were previously made the Council's Executive are still in force. Under section 76 of the 2014 Act, it states that on three years after the passing of the 2014 Act, the dog control orders will be considered to be in effect public spaces protection orders.

3.8.5. Any challenge to PSPO made by the Council must be made in the High Court by an interested person within six weeks of the PSPO being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. The grounds for challenging a PSPO are that the Council did not have the power to make the PSPO, or to seek an order to include particular prohibitions or requirements and that one of the requirements in making a PSPO (eg a necessary level of consultation with relevant bodies) had not been complied with.

3.8.6. The process for agreeing a PSPO is contained within Appendix 2. This will include:

- a designation of the area proposed
- reasons for applying for the PSPO
- an explanation as to why it meets the test
- what prior actions have been taken to resolve the issue
- supporting evidence including reports from those in the locality that the behaviour is having a detrimental effect
- details of groups consulted
- A plan to deal with potential displacement
- prohibitions and requirements identified at the Local Joint Action Group (LJAG) meeting of partner agencies.

3.8.7. We intend to use Public Space Protection Orders to tackle issues around casual labour markets, which drive the rough sleeping problem occupying many of our parks, as well as issues around problem vehicles and motoring behaviours in specific locations such as Westmoreland Road or around the Ace Café. Additionally we may explore using PSPOs to tackle dog control issues in cemeteries or in support of disorder linked to the night-time economy or environmental crime.

3.8.8. Given that a PSPO in effect gives the council the ability to create a criminal offence out of behaviour that is not currently criminal, it is vital that there is a strong element of democratic oversight. It is proposed that the delegated authority for the function of agreeing Public Space Protection Orders should be granted to the Chief Operating Officer in consultation with the Lead Member for Stronger Communities. This will be reviewed after the first year of operations.

### **3.9. Closure Power**

3.9.1. The Closure Power allows the Council or police to quickly close residential or commercial premises which are being used to commit nuisance or disorder. The Council (or the police) may issue a Closure Notice, which makes it a criminal offence for anyone other than the owner and people habitually resident to enter the property for at least 24, and up to 48, hours. An application to the Magistrates Court for a Closure Order must be made at the same time as issuing the notice.

3.9.2. The Act specifies that a Closure Notice of up to 48 hours duration, or an extension to a 24 hour notice of a further 24 hours, must be authorised by the Chief Executive of a local authority or someone designated by the Chief Executive. The statutory guidance explains that “the level or role of employee within the Council who can issue a notice for up to 24 hours has not been specified due to the different structures locally. In considering who should be authorised as designates of the chief executive officer for the issuing of the 48 hour notice, Councils will also want to consider who is delegated to issue the closure notice for 24 hours and consider whether the extension to 48 hours should be authorised by an officer of greater seniority, as is the case for the police. This may take into consideration the need for the power to be used quickly, its flexible nature, and equivalent requirement for a police inspector to issue a closure notice for 24 hours.”

3.9.3. It is proposed that Cabinet delegate authority to the Chief Operating Officer and the Strategic Director, Regeneration and Growth, as the designated officers of the Chief Executive to issue a Closure Notice under the 2014 Act on behalf of the Council for up to 48 hours; and to the Head of

Community Safety and Emergency Planning as the designated officer of the Chief Executive to issue a Closure Notice for up to 24 hours.

3.9.4. A Closure Order is made by the Magistrates Court. The Order makes it a criminal offence for anyone, including the owner and residents, to enter the property. The Order lasts for 3 months and may be extended by the court for a further 3 months. The Council does not have to proceed with the application for a Closure Order if the Closure Notice has solved the problem, but must notify the Court where this is the case.

### **3.10. Absolute Ground for Possession**

3.10.1. The Absolute Ground for Possession enables the Council to seek eviction of its tenants where their anti-social behaviour meets one or more of the following criteria, linked in a specified way to the dwelling-house, locality or landlord:

- Convicted of a serious offence (specified in Schedule 2A of the Housing Act 1985<sup>1</sup>)
- Found by a court to have breached a Civil Injunction
- Convicted for breaching a Criminal Behaviour Order
- Convicted for breaching a noise abatement notice
- The tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour.

3.10.2. The criteria mean that a court must have made a decision in respect of the behaviour, but the decision on whether a tenant should lose their home as a result may be made by the landlord with only limited opportunities for further legal scrutiny of this decision. The tenant may seek a review of the decision by a more senior officer in accordance with a procedure set out in regulations (ie Absolute Ground for Possession for Anti-social Behaviour (Review Procedure)(England) Regulations) and a secure tenant will have a statutory right to request a review of such a decision.

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<sup>1</sup> Schedule 2A of the Housing Act 1985 allows possession of a dwelling-house where:

The tenant or a person residing in or visiting the dwelling-house has been:

(i) guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality; (ii) convicted of using the dwelling-house or allowing it to be used for immoral or illegal purposes, (iii) or an indictable offence committed in, or in the locality of, the dwelling-house.

The dwelling-house was occupied (whether alone or with others) by a married couple, a couple who are civil partners of each other, a couple living together as husband and wife or a couple living together as if they were civil partners and (a) one or both of the partners is a tenant of the dwelling-house (b) one partner has left because of violence or threats of violence by the other towards (i) that partner (ii) a member of the family of that partner who was residing with that partner immediately before the partner left and (c) the court is satisfied that the partner who has left is unlikely to return.



3.10.3. If no review has been requested or if a review has taken place and the review has upheld the decision to reply on the absolute ground for possession, the landlord must apply to court for a possession order but, subject to the relevant considerations under the Human Rights Act and the Equality Act, a Judge has no discretion over whether or not to grant a possession order. If one of the above criteria as set out in paragraph 5.20 is met and the correct process has been followed by the landlord, the Judge must grant a possession order in respect of the property, subject to any human rights related defence that may be raised by the tenant, including proportionality.

3.10.4. The statutory guidance is clear that this power is intended to be used in only the “most serious” cases of anti-social behaviour and adds that landlords should ensure that the ground is used effectively. Therefore any decision making delegation should be properly restricted in order to reflect the seriousness of such a decision and it should be done in consultation with Legal Services. It is proposed that the decision to serve a possession notice should be restricted to managers in the Brent Housing Partnership Neighbourhood Services team, as the team that leads on anti-social behaviour and decisions on issuing possession proceedings against ALMO Housing tenants.

### **3.11. Fixed Penalty Notice**

3.11.1. Breach of a Community Protection Notice or Public Space Protection Order is a criminal offence which may be dealt with by way of a Fixed Penalty Notice (FPN). FPNs can be served by designated Council Officers and by the Police. Any revenue from an FPN comes directly to the Council, even if it is issued by the Police. Local authorities can, if they wish, designate the power to issue CPNs and FPNs to specified housing providers in their area. It is recommended that the Cabinet delegate authority to the Strategic Director, Regeneration and Planning to designate housing providers to issue Community Protection Notices and Fixed Penalty Notices.

3.11.2. The 2014 Act provides that the level of the Fixed Penalty is at the local authority’s discretion up to a maximum of £100. Unlike similar statutory provisions it does not set a default amount. It is proposed that the Fixed Penalty for offences under the 2014 Act should be set at £75 (discounted to £50 if paid within 14 days) as this is in line with the Fixed Penalty payable under FPNs currently issued by the Council for offences such as littering under the Environmental Protection Act 1990.

### **3.12. “Community Trigger”**

3.12.1. The Community Trigger is not an enforcement power but a mechanism by which complainants about an anti-social behaviour issue can request a review of how the issue has been dealt with (an “ASB case review”).

3.12.2. The review must be carried out by the “relevant bodies” in an area: the Council, the police, the Clinical Commissioning Group and any social landlords who have been co-opted to be included in the relevant bodies. Other social landlords must be consulted in the review if they have been involved in the case.

3.12.3. The relevant bodies must agree and publish review procedures, describing the locally agreed threshold for a review and how a review will be carried out. The applicant(s) for the review must be informed of the outcome and any recommendations made as a result.

3.12.4. The council’s Community Trigger protocol can be found in Appendix 3.

## **4. Financial Implications**

4.1. It is expected that the use of the enforcement powers contained within The Anti-Social Behaviour, Crime and Policing Act 2014 will have limited financial implications both in terms of expected income and associated costs.

4.2. Revenue generated by use of Fixed Penalty Notices will come directly to the Council and be administered in the same way as existing Fixed Penalty Notice income; organisations given delegated authority to issue Fixed Penalty Notices will be responsible for administering their own schemes.

4.3. There are limited risks relating to new responsibilities within the Act and also relating to the use of works in default powers, as it is not clear from the legislation whether there is provision to secure any costs incurred by way of a property or land charge. However, these risks are not regarded as being financially significant.

## **5. Legal Implications**

5.1. Legal implications are set out in the main body of this report.

## **6. Diversity Implications**

6.1. The tools and powers contained within the ASB Crime and Policing Act could have a positive impact and provide protection for vulnerable individuals, areas or groups that are experiencing anti-social behaviour. Officers will need to make sure that the impact on equality, diversity and Human Rights are considered when making decisions about the implementation of the new powers within the Act.

## **7. Staffing/Accommodation Implications (if appropriate)**

7.1. None

## **Background Papers**

Appendix 1: Comparison of new tools and powers with previous tools and powers

Appendix 2: Public Space Protection Order protocol

Appendix 3: Community Trigger protocol

## **Contact Officers**

Lorraine Langham  
Chief Operating Officer  
X1516

Chris Williams  
Head of Community Safety & Emergency Planning  
X3301

## APPENDIX 1

Comparison of new tools and powers with previous tools and powers

Current powers	New powers
ASBO	Civil Injunction
Drink Banning Order	
ASB Injunction	
Individual Support Order	
Intervention Order	
ASBO on conviction	Criminal Behaviour Orders
Drink Banning Order on conviction	
Dispersal Order	Dispersal powers
Litter Clearing Notices	Community Protection Notice
Defacement Removal Notices	
Street Litter Control Notices	
Controlled Drinking Zones	Public Spaces Protection Orders
Gating Order	
Dog Control Order	
Premises Closure Order	Closure of Premises Notice and Order

## APPENDIX 2

### **London Borough of Brent Public Space Protection Orders (PSPO) Operating Protocol**

#### **Local Operating Protocol**

##### **1. Who to contact:**

All applicants considering a PSPO should contact the Brent Community Safety Team ASB and Crime Manager. The Community Safety Team can be contacted on 0208 937 1058 or by email at [bcspu@brent.gov.uk](mailto:bcspu@brent.gov.uk).

Applicants could be community safety partners, elected members, resident or community groups.

The application will be assessed by the Community Safety Team to decide if the legal test has been met.

##### **Legal Test**

- Behaviour has to be likely to or has had a detrimental effect on the quality of life of those in the locality;
- Is, or is likely to be persistent or continuing in nature
- Is, or is likely to be unreasonable; and
- Justifies the restrictions imposed

In consultation with partners the following additional local threshold has been agreed:

- The nuisance behaviour described has taken place on at least five occasions over a one year period
- Evidence has been gathered over a three month period

##### **2. Evidence:**

The ASB Localities will review up to three months' worth of evidence provided by the applicant. Evidence required to make a PSPO can include the following, although this list is not exhaustive:

- Police data, including CAD Calls and CRIMINT
- ASB data from Registered Housing Providers, Brent Housing Partnership and the Local Authority ASB Team
- London Fire Brigade (LFB) data relating to hotspot areas for non accidental fires
- London Ambulance Service (LAS) data relating to hotspot areas for related incidents
- Data relating to rough sleeping or street drinking hotspots
- Data relating to disorder in parks and other open spaces
- Complaints from residents groups, community groups and ward members

If the evidence does not meet the threshold for a PSPO, the Community Safety Team will provide feedback to the applicant and the problem should be monitored for an agreed period of time. Occasionally a requirement for a PSPO may occur without three months of previous evidence. In this instance the PSPO can be applied for without three months' evidence provided there is sufficient evidence of significant impact (or likely impact) to the locality; this would also be relevant where problems are seasonal and recurring in nature.

##### **3. Referral to LJAG and Consultation**

The applicant should make the referral to the relevant Local Joint Action Group (LJAG) if the threshold is met. This forum meets on a monthly basis. The LJAG will review the evidence pack submitted, reasons for applying for the PSPO and prior action/actions which have been taken to resolve the problem.

An LJAG Task and Finish meeting can be convened immediately to hear the PSPO application if there is an urgent requirement to apply for the PSPO and delaying the decision until the next scheduled LJAG meeting would exacerbate the issue.

If LJAG members agree that the PSPO should be implemented, the ASB Localities Officers will consult all interested parties on the PSPO within 14 days of the LJAG decision.

If there are any cross border issues relating to the PSPO application, the ASB and Crime Manager will contact the neighbouring Borough to ensure they are consulted and involved in the process.

The ASB and Crime Manager will consult the Police Partnership Inspector on the policing plan to enforce the PSPO.

The ASB Localities officers will produce the PSPO application form and this will convey:

- a designation of the area proposed
- reasons for applying for the PSPO
- an explanation as to why it meets the test
- what prior actions have been taken to resolve the issue
- supporting evidence including reports from those in the locality that the behaviour is having a detrimental effect
- details of groups consulted
- A plan to deal with potential displacement
- prohibitions and requirements identified at the LJAG.

#### **4. Sign Off and Implementation**

The completed PSPO application form and evidence base will be submitted to the Chief Operating Officer in consultation with the Lead Member for Stronger Communities.

A PSPO can be implemented for a maximum of three years.

The ASB Localities Officers will produce the PSPO notices which will be erected by the Local Safer Neighbourhood Teams, in consultation with Brent Council's Transportation Team, in the area specified.

#### **5. Review**

The LJAG will review the effectiveness of the PSPO once implemented. PSPOs will be reviewed at the LJAG quarterly if the duration is over 12 months, and monthly if the duration is under 12 months.

It is the expectation that all interested agents of the PSPO attend the LJAG meetings to review its effectiveness.

#### **6. Publicity**

Brent Community Safety Team will arrange for the order to be published on the Brent Council Website, and notify LB Brent and Metropolitan Police Communication Teams for communications coverage seven days prior to implementation.

#### **7. Appeals**

Any appeals to a PSPO or to a variation of a PSPO must be made by an interested person to the High Court within six weeks of the order being made. An "interested person" is one who lives, regularly works in, or visits the area.

A PSPO can be challenged if the council did not have the power to make the order, or to include particular requirements/prohibitions, or that the process was not adhered to.

#### **8. Breach of PSPO**

Breach of a PSPO is a criminal offence subject to up to a level 3 fine on prosecution, which is a maximum of £1000.

A breach occurs when a person without reasonable excuse

- Does anything that the person is prohibited from doing by a PSPO
- Fail to comply with a requirement of a PSPO

A Fixed Penalty Notice (FPN) can be issued, however this would discharge liability to conviction for the offence, unless unpaid. The FPN can be issued by a police officer or council officer.



## **APPENDIX 3**

### **Brent Community Trigger Protocol**

#### **Summary:**

The Community Trigger is introduced through the Anti Social Behaviour, Crime and Policing Act 2014 and is designed to give victims the ability to demand action should they feel their case has not been adequately responded to.

Relevant bodies proscribed in the Community Trigger legislation are the Local Authority, the Police, Clinical Commissioning Groups, and Registered Providers of Social Housing. A victim of Anti-Social Behaviour (ASB) or any other person acting on behalf of the victim can make an application to activate the community trigger. The victim can be an individual, business or community group; the “community group” may be a loose group of affected residents, or a formal community group or residents’ association.

This document describes how this process works in Brent.

#### **Using the Community Trigger**

##### **Thresholds**

To activate a Community Trigger a number of Qualifying Complaints must have been made to one of the Relevant Bodies. A Qualifying Complaint has to be made within one month from when the behaviour occurred, to at least one of the Relevant Bodies.

The request to activate the community trigger must be made within six months of when the original complaint was made.

The following criteria must also apply:

- there have been at least three qualifying complaints
- the behaviour complained of must be classified as anti-social behaviour capable of achieving the threshold described below.

For the purposes of the community trigger, anti-social behaviour is defined under s105 (4) of the Act as “behaviour causing harassment, alarm or distress to members or any member of the public”. It is useful to note that this is a higher threshold for ASB than is set out elsewhere in the Act, for example regarding the use of injunctions (s2 (1)), and does not therefore necessarily include behaviour which is regarded as a nuisance or annoyance.

Anonymous reports do not meet the Community Trigger threshold as in order for the trigger to be effective the panel must review the given details of each time a person has reported the ASB (i.e. the organisation it was reported to with the name of the employee that was spoken, incident reference number(s) and information about the incidents reported). Exempting anonymous reports also prevents fraudulent or malicious use of the trigger process. The Community Trigger model does not replace organisations’ complaints procedures or the customer’s opportunity to complain to the Ombudsman or Independent Police Complaints Commission (IPCC).

#### **Process**

Trigger applications will be received through an online form, which will gather information around the case history and will contain a risk assessment for victims in order to identify any

vulnerabilities that may exacerbate the ASB experienced. The victim will also be asked for their consent to share information with other agencies to enable more holistic case management to resolve the case. The specified point of contact for all trigger applications will be the ASB and Crime Manager, who will pass on requests for information from all relevant bodies. The Applicant may also request a hard copy form which can be submitted to:

Community Trigger, Community Safety Team, 5th Floor, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ.

Vexatious or persistent and unreasonable complaints will be referred to our Corporate Complaints Team and dealt with under the Dealing with Vexatious Complaints Policy.

## **Case Reviews**

### **Tier 1 Case Reviews**

The ASB and Crime Manager will review Community Trigger Applications on receipt to decide if they meet the thresholds. The victim will be contacted within three working days of receipt of the trigger application and the process will be explained to them.

If the thresholds are met the lead agency/agencies in the case will be contacted to provide a detailed case history of their dealings with the case, along with their case management protocols within 10 working days. The ASB and Crime Manager and Partnership Inspector will then meet within five working days following the receipt of information to determine whether the case was managed satisfactorily and undertake a tier one case review.

If, at this stage, according to the assessment of the ASB and Crime Manager and the Partnership Inspector, and where the victim has not shown any vulnerability, the person invoking the trigger will be informed five working days after the tier one case review that a case review has been undertaken and has found the case to be managed satisfactorily. Advice will also be provided on reporting ASB in the future and the victim will be informed of the trigger escalation process if they remain unsatisfied with this outcome; this means that the victim themselves can enforce a Tier 2 review at this stage.

### **Tier 2 Case reviews**

If the ASB and Crime Manager and Partnership Inspector have assessed that the case was not managed satisfactorily, or the victim is assessed as being vulnerable (as demonstrated by a Red score on the Vulnerability Risk Assessment Matrix (RAM)), a further multi agency case review will be arranged with the key partners that would have a role to play in dealing with the case. All partners will be required to bring information to the case review of their dealings with the person invoking the trigger within 10 working days. Core members of this multi agency case review panel will include the Relevant Bodies within the Act, which are the Police, Health, the Local Authority (represented by the Community Safety Team) and representatives of registered social housing providers. The review panel will be chaired by the Head of Community Safety and any action plans will be authorised by them.

A tier two case review meeting will be undertaken after 10 working days where further research is undertaken regarding the victim and the ASB. Agencies other than the lead agencies are required to provide their information relating to the case at this juncture. An action plan will be agreed to resolve the case and recommendations will be made to the lead agency/agencies to consider adopting future case management processes.

Following the tier two case review meeting the victim will be contacted within three working days to be made aware of the action plan and to give their consent to proceed with it. The victim will also be informed of the recommendations made to the lead agency/agencies dealing with the case.

The action plan will be implemented and monitored at the most appropriate ASB Panel, depending on factors such as the vulnerability of the victim, whether the case is location-specific etc.

- The ASB Prevention Panel (APP) will manage action plans for ASB that is targeted at an individual/household who is **not** vulnerable
- The Community MARAC (Multi Agency Risk Assessment Conference) will manage action plans for ASB that is targeted at an individual who **is** deemed vulnerable.
- The Local Joint Action Groups (LJAGS) will manage action plans for ASB that is location based and not necessarily targeted at an individual.

Victims will be contacted 10 working days after the completion of the action plan via the most appropriate panel to inform them of the outcome. If the victim is still unsatisfied with the outcome of their case review they can request a further review from Brent Council's Chief Executive, who is the chair of the Safer Brent Partnership.

The Community Trigger process will be reviewed six months after its inception on the 20 October 2014 and then annually to ensure it is fit for purpose and is reaching those of our most vulnerable residents who experience ASB. The review will be carried out by the ASB Delivery Group, which reports directly to the Safer Brent Partnership and oversees the delivery of the ASB delivery plan and is chaired by the ASB and Crime Manager.

### **Consultation and promotion of the community trigger**

The Mayor's Office for Policing and Crime (MOPAC) has been consulted regarding the proposed process. To consult with the community we will present this process to a future Safer Neighbourhood Board to ensure that they are aware of the process and are also be able to cascade this information via their community networks.

The Community Safety Team has published the Community Trigger process along with instructions on the Community Trigger and victim expectations on Brent Council's Website. We will also publish information annually:

- the number of applications for the Community Trigger that have been made
- the number of times the threshold for a review was not met;
- the number of case reviews carried out
- The number of case reviews carried out that has resulted in recommendations being made.