



**Partnership and Place  
Overview and Scrutiny Committee**  
19 October 2010

**Report from the Director of  
Policy and Regeneration**

Wards Affected:  
ALL

**Tackling Anti-Social Behaviour in Brent**

**1.0 Summary**

- 1.1 This report sets out the background to tackling Anti Social Behaviour in Brent and is intended to augment the presentation that will be delivered to the committee on 19 October 2010.

**2.0 Recommendations**

- 2.1 That the committee note and comment on the report and the presentation.
- 2.2 That when there is clarity about the proposed new legislative framework that the committee is updated

**3.0 Detail**

*Background*

- 3.1 The role of local authorities in curbing crime and increasing community confidence can be traced back to the end of the Second World War, developing from Emergency Planning to have an impact on the day to day life of all communities. The London Borough of Brent embraced the concept of working with the Police and other key agencies long before the 1998 Crime and Disorder Act made the work a statutory duty.

- 3.2 Crime with its potential for impact on individuals, businesses and communities has remained high on the political agenda and has been one of the three top concerns of communities in Brent for many years.
- 3.3 Crime and community confidence is a complex area of work touching on all departments within local authorities and interacts with a wide range of statutory and voluntary sector partners. Over time to coordinate these functions, provide expert advice and underpin the required formal partnerships, Community Safety Units have become the norm. Reflective of the pivotal and highly political role of these departments, overwhelmingly they form part of central services in councils.
- 3.4 Nationally, successive governments have introduced rafts of legislation to augment the initial 1998 Act. All of these have increased the onus on local authorities as the lead agency to drive the agenda and pull together other agencies. In fact, there have been some 68 Acts combined with approximately 680 regulations and a plethora of recommendations and targets over the last 12 years. These have been added to by Judicial Reviews, Public Enquiries and court cases that have set precedence.

#### *Antisocial Behaviour*

- 3.5 One of the key aspects of the work has been Antisocial Behaviour. Whilst the activities that fall under this banner have grown basically it is:

" Acting in a manner that causes or is likely to cause harassment, alarm or distress to one or more persons not of the same household as the complainant."

Examples of ASB can include:

- Vandalism
- Threatening behaviour
- Abusive language
- Noisy neighbours
- Graffiti
- Fly tipping

- 3.6 ASBO's can and have helped protect members of a community from those people who insist on making the lives of others a misery, but may not be successfully prosecuted through just one single incident of inappropriate behaviour. In this instance, those members of society that behave irresponsibly during a consistent time period can be tackled via an order. They were not designed to be a replacement for other existing crime dealing methods or make unlawful behaviour acceptable.
- 3.7 The well publicised demise of the Antisocial Behaviour Order, was, it seems somewhat premature. In July the Home Secretary announced a review of the

ASB legislation. Mrs May's aim is to give the public a greater role in curbing unacceptable behaviour that is happening in their communities.

3.8 In particular she wanted to look at how ASBO's work, its true to say about 50% of the orders are breached and action is taken. It is at the point of the order being breached that it become a criminal offence; prior to that point it is a civil matter. Breaches have lead in some instances to lengthy prison sentences.

3.9 The Government are consulting on "Instant Preventative Measure" the proposal is that:

- The transgressor has come to the attention of the Police due to their anti social or 'poor behaviour' on three separate occasions within the last 12 months. (Note the use of the word 'transgressor as opposed to 'offender'. This is because persistent poor behaviour that causes public annoyance often does not amount to a criminal offence.
- On the first two occasions the transgressor is warned about their poor behaviour.
- The warnings can be issued by a Police Officer or by a member of the public willing to provide evidence if required to support the IPM.
- This would not be a bureaucratic process. The Police Officer gathering the evidence needs only to record the warning concisely in their pocket note book and then enter warning into the Police intelligence system.
- This fits into the 'Big Society' format, as it empowers the community and also gives authority to PCSO's.
- The process would be flexible and not restrictive. For example:
- The person issuing the warning does not have to report it instantly to the Police.
- The officer would record the third party evidence of in their pocket book and invite the person to sign the entry. No statements would be required, cutting down on unnecessary bureaucracy.
- The three warnings are to show persistent poor behaviour.
- The three occasions could all occur on the same day.
- The twelve month window is the time period before the first warning expires.

3.10 Following a third warning the transgressor is served with a formal instruction notice:

- The formal instruction notice has two elements. It can:
- Direct the transgressor to complete an action or task.
- Restrict the transgressors behaviour or movements or both.

- Combine both Direction & Restriction.
- The formal notice must be served by a Police Officer or PCSO.
- The details of the direction or restriction or both must be written onto the form .
- The instructions must be explicit and realistic and will also be explained verbally to the transgressor.
- In practice the third warning would most likely be issued by a Police Officer / PCSO observing the 'poor behaviour' and in these circumstances the formal instruction notice would be served on the spot.
- Therefore a third warning can be issued by a member of the public and then reported to the Police and the formal instruction notice served at a later date
- The formal instruction notice is effective immediately and remains in force for a period of 30 days.
- After 30 days a partnership agency group reviews the IPM or 'Instant Preventative Measure'
- The presumption of the group will be to keep the IPM in place unless there is good reason to rescind it.
- The group could extend the IPM for anything up to 12 months.

3.11 The principle of common sense will prevail throughout.

- For example: If the notice was solely for a restorative justice direction, then it could be 'spent' as soon as the direction was completed.
- The direction could be on going and would need supporting, by some agency or organisation. (Restoring a damaged garden for example )

3.12 Breaches

- Primary legislation would need to be enacted to make IPM's work to replace the ASBO legislation.
- It would be a criminal offence to breach an IPM, as it is with ASBOs
- The breach of an IPM would carry a statutory power of arrest, again mirroring ASBOs.
- The criminal offence is committed when the conditions of the formal instruction notice are breached. Therefore:
- The subsequent prosecution would need to prove that the notice was served.
- Only the Police Officer or PCSO need be called to give evidence of this as currently happens with ASBOs.

- The original circumstances that led to the implementation need not be proved only the breach, this is a contentious variation on ASBOs
- At the point of breaching an IPM the transgressor becomes an offender.
- Until that time intention is to prevent crime and disorder and enhance community safety. To do this the transgressor needs to be identified as per normal Police procedure.
- In the case of a young offender, on the first occasion a letter would be sent to a parents or guardian or the young person taken home.
- On the second occasion the young person would be taken home where practicable or a letter sent to a parent or guardian.
- On the third occasion the young person must be taken home and the formal notice served in the presence of a parent or guardian.

3.13 There is a resource issue and a risk factor involved here for the Police through detaining a young person from their liberty by taking them home.

3.14 The legal power of detention issue can, it is hoped be dealt with by primary legislation or by standing arrest and de-arrest procedures. Home legal thinkers have said that the use of existing powers will leave the door open for legal challenge.

3.15 This is the sort of preventative action the Police should be doing and fits right into the modernisation reforms for Policing in the 21<sup>st</sup> century proposed by the government. Furthermore it is what the Police should be doing as good practice but again resources may push priorities.

3.16 This 'three times and you are out' warnings process at the core of the IPM procedure has been carried out successfully by individual Neighbourhood Policing Teams and the Transport Police for many years and it works, but the administration may be to complex for widespread use.

3.17 It is effective because a letter or home visits very often curtails a young person's anti social behaviour at an early stage and is one of the reasons why so few ASBO's were issued. The process may also be described as an ABC (Acceptable Behaviour Contract) with teeth as the IPM carries a sanction.

3.18 *Other Proposed Legislative Changes*

3.19 Solid information is somewhat sketchy, but as with health reforms there will be an ever increasing onus on Councils to lead and direct, especially in areas such as licensing.

3.20 The Government proposes to scrap the ID card scheme, the National Identity register and the ContactPoint database, and halt the next generation of biometric passports.

- 3.21 Similarly, the Government is keen to see changes to the Freedom of Information Act to make the act more transparent, and to see further regulation on the use of CCTV. This ties in with the Government's stated aim within the document to "restore the rights of individuals in the face of encroaching state power." Councils' use of CCTV is already regulated under data protection legislation, but how this affects council use of CCTV is not always clear. If the Government's intention is to provide clarity on the use of CCTV then that would be welcome. Brent would however be opposed to further regulation of councils' use of CCTV when funding reductions are already making it difficult for Brent and other councils to sustain their CCTV systems.
- 3.22 The Government wants to see a number of reforms to the criminal justice system. One proposal set out within the document supports the introduction of directly elected police commissioners. Brent is concerned that introducing a parallel structure of direct elections across a number of areas (for police and health, and directly elected mayors in 12 cities) will fracture local services when, now more than ever, we need local services to come together to pool resources and deliver efficient and effective frontline services. Any proposals for reform must not undermine the excellent partnership work at local level between the police, councils, probation and the fire service which are so important in reducing crime.
- 3.23 Regulation of Investigatory Powers Act. Local authorities are already subject to enhanced control measures on their use of surveillance that were put in place on 6th April 2010. However, provided the procedures do not substantially delay councils' ability to apply to use covert surveillance techniques, then the LGA Group would not be opposed to having to apply to court to use covert surveillance techniques.
- 3.24 Brent does have particular concerns however, about the definition of serious crime. Currently the Regulation of Investigatory Powers Act defines these as offences involving violence or are punishable with a sentence of over three years. Covert investigatory techniques are often needed to convict benefit fraudsters, rogue traders, loan sharks, traders selling pirated CDs and DVDs, commercial flytippers and people indulging in serious anti-social behaviour affecting local communities. Unless the definition in the act is changed councils would not be able to tackle these serious crimes, and Brent and other boroughs will be seeking to persuade the government that any changes should not prevent councils from doing so.
- 3.25 The Government has also established the National Security Council, and Brent the Local Government Association and others are keen to ensure that local government is appropriately represented on this.

**4.0 Financial Implications**

4.1 None

**5.0 Legal Implications**

5.1 None

**6.0 Diversity Implications**

6.1 None

**7.0 Staffing/Accommodation Implications (if appropriate)**

7.1 None

**Background Papers**

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