

**POLICE & CRIME
COMMISSIONER FOR
LEICESTERSHIRE**

POLICE AND CRIME PANEL

PAPER MARKED

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| Report of | POLICE & CRIME COMMISSIONER (PCC) & LEICESTERSHIRE COUNTY COUNCIL |
| Subject | ANTI SOCIAL BEHAVIOUR, CRIME AND POLICING BILL |
| Date | MONDAY 17 MARCH 2014 – 2.00PM |
| Authors | CHIEF EXECUTIVE & HEAD OF SUPPORTING LEICESTERSHIRE FAMILIES & SAFER COMMUNITIES |

Purpose of Report

1. This report provides the Police and Crime Panel (the Panel) with an overview of aspects of the Anti Social Behaviour Crime and Policing (ASB) Bill that may be of relevance to the PCC. The report is in two parts - Part A is an update from the County Council which brings the wider context and impact of the ASB Bill and Part B is an update from the OPCC Chief Executive.

Recommendation

2. The Panel are recommended to discuss the contents of this report.

Part A – County Council Update

Background

3. In 2010 the Home Office launched a consultation paper (More Effective Responses to Anti-Social Behaviour) that proposed a transformation in the way anti-social behaviour is dealt with. It also outlined the findings of a review of ASB tools and powers that found the current system inefficient, slow and not fit for purpose.
4. The Anti-Social Behaviour, Crime and Policing Bill 2013/14 has stream-lined the current ASB toolkit (reducing the number of orders from 19 to 6, as illustrated at *Appendix 1*) so that the remedies are more flexible and faster at stopping ASB. The Bill also focuses on giving better witness satisfaction and making agencies more accountable to witnesses and communities when agencies fail to act. The Bill will come into enactment in September 2014.
5. Key changes as a result of the Bill:-
 - To replace the ASBO and a range of other court orders targeted at anti-social individuals with two new tools; a Criminal Behaviour Order and a Crime Prevention Injunction.

- To consolidate the tools to deal with place specific anti-social behaviour into a two tier Community Protection Order and a simplified police power to direct people away from an area on grounds of anti-social behaviour.
- Introduction of a new “Community Remedy” which uses a restorative justice approach to deal with low level crime and anti-social behaviour.
- *Community Trigger*: This would impose a duty on the statutory partners in a Community Safety Partnership (CSP) to take action in cases where victims or communities have complained about ASB on a number of occasions or when a number of people report the same ASB and it is perceived that local agencies have failed to respond.

6. Further detail on these changes is outlined at *Appendix 2*.

Implementation

7. The Government is expecting local areas to make local plans for implementation of the Bill. In order to take this forward in Leicestershire a Leicester, Leicestershire and Rutland ASB Bill Task and Finish Group has been established, chaired by Gurjit Samra-Rai from the County Council and made up of representatives from Leicestershire Police, Rutland County Council, Leicester City Council, Charnwood Borough Council, Hinckley & Bosworth Borough Council (& Chair of Chief Housing Officers Group), Social Crime and Landlords Group & Fire & Rescue Service. Legal services and an officer from the PCCs office will be invited as and when required.
8. The Task and Finish group has considered:-
- What the sub region should consider doing differently in light of these new powers
 - What the changes are in practice and how we should prepare for them
 - Training requirements and the development of a sub-regional training plan and associated costs
 - A review of current policies and procedures to ensure they are fit for purpose (e.g JAGs and the Incremental Approach).
9. A ‘light touch’ JAG review is underway; this is to ensure that the Terms of Reference and Minimum Standards for JAGs are still fit for purpose. The review report with recommendations, shall be circulated to all Local Authority Chief Executives, Chairs of the CSPs and Chairs of the JAGs.

Part B – OPCC Update

Summary

10. The Anti Social Behaviour, Crime and Policing Bill has completed its passage through both Houses of Parliament and is awaiting Royal Assent.
11. There is an element of the legislation that has a direct implication for PCCs. This is the requirement for a PCC to authorise a list of Community Remedies which Officers can utilise as a disposal outcome for minor crimes and to deal with some types of ASB that are not classified as a crime (some of these may be dealt with by agencies other than the Police).

Remaining legislative process

12. The granting of Royal Assent to the legislation does not mean that the elements contained within the legislation automatically become law, rather it grants the named Secretary of State (in this case the Home Secretary) the power to determine the dates at which elements contained within the legislation actually take effect and become law.
13. Whilst there is, as yet, no official indication as to when the Home Secretary will lay any Statutory Instruments regarding this legislation before Parliament (nor what dates these will assign when she does) the Association of Police and Crime Commissioners (APCC) believes that the intention is that the revisions to the "Community Remedy" process will take effect from April 2015. Until then the existing "Community Remedy" process will remain in place.

Revisions to the "Community Remedy" process

14. It should be noted that what is being described as "Community Remedies" was introduced into parts of Leicestershire in 2008 as part of a National Pilot; this was subsequently extended to the whole Force where it has been in operation for over 5 years and is now an embedded process; this is not the case elsewhere in the country (as Leicestershire was one of only 4 pilot areas). However, the process in Leicestershire has locally been described as "Restorative Justice", a description which the Home Office is now using for the process by which victims interact with offenders as part of the process to prevent re-offending. Also the Home Office Counting Rules (NCRS) refer to this same process as "Community Resolutions"
15. Currently over 30 minor crimes (categories like criminal damage and minor non-domestic violence with no injury) every week are dealt with by Officers using a Community Resolution (over 1,600 in the past 12 months which is nearly 1 in 10 of all crimes dealt with in a positive manner).
16. Under this current process, Officers have been given the discretion to use their initiative to determine how to deal with a matter. This granting of discretion at the time was given widespread media coverage by the previous Government, Officers from Leicestershire (as the pilot area) appeared on a number of national outlets and channels as part of this media coverage.
17. Incidents recorded under National Standards for Incident Recording (NSIR) as Anti Social Behaviour are not defined as criminal activity and hence the methodology to record it is not the same for a crime. Specifically, there is no need to record a "Disposal" type for an ASB incident. However, much ASB activity is dealt with in a manner that would be described as a "Community Remedy" had it been a crime; it is just not currently formally recorded as such.
18. Under the new legislation, the discretion given to individual Officers is replaced by a prescriptive process whereby the PCC determines a list of available remedies from which officers can select.
19. In addition, this formal process is widened so that those ASB incidents that do not constitute crime need to be recorded with a "disposal" in the same way as the crimes. This is a change of process rather than a change of practice and it is believed that the Sentinel IT system has the facility to record these.
20. However, the legislation only covers ASB where there is one (or a unique group of) perpetrator(s) who can be dealt with. What it will not cover are cases where the action

taken is to prevent further occurrences rather than identifying and “punishing” those responsible for past acts.

21. The responsibility for implementation of Community Remedies for offenders will always be the Police (either an Officer or in some circumstances a member of Police Staff), but in cases of ASB there is a possibility that a member of staff from another agency would be the implementer.
22. The PCC will be required to publish a “Community Remedy” Document. He must base this on consultation and must evidence that this is the case. The legislation stipulates that this consultation must have included the Chief Constable amongst the consultees.
23. The document must be published by the PCC in such a manner that the contents are disseminated as widely as possible. It must be in a form that will both be understandable to the public and to the Officers (and potentially employees of partner agencies) who will have the responsibility for implementation.
24. Once the document has been published, it would be appropriate for the PCC to ensure that it is monitored appropriately.
25. In addition, the PCC must ensure that those persons charged with the implementation of the remedies must be aware of their responsibilities and how they are to do this, otherwise there is a risk of non-compliance through ignorance of the process.

Consultation regarding “Community Remedy” Document

26. The Home Office are setting no prescriptive rules as to what form consultation on the “Community Remedy” (CR) Document should take, although there will be a requirement to evidence what form it does take.
27. However, it may be appropriate to utilise existing consultation methodologies rather than carrying out specific consultation just for this purpose and the PCC will be progressing these in due course.

Format of “Community Remedy” Document

28. Whilst there is no prescription as to what form a CR Document should take, the Home Office have published an example both within the Impact Assessment for the legislation itself and within the draft of their “Reform of anti-social behaviour powers - Guidance for frontline professionals” document.
29. Both suggest that the document should include the following alternative remedies:
 - mediation
 - a written or verbal apology
 - the perpetrator signing an Acceptable Behaviour Contract
 - attend a neighbourhood justice panel for restorative justice
 - repairing damage
 - paying an appropriate amount for repair or replacement;
 - participation in a PCC funded initiative
 - reparation to the community
30. The style of this guidance shows that there is flexibility in the reparative measures listed in the document, which provide latitude for officers to continue to use their own

initiative as to what is appropriate to the individual circumstances of the case being dealt with.

31. Consultation will explore these remedies and alternatives further and may form the basis of any consultation into the CR Document and that such consultation might take the form of asking respondents whether they were happy with the list or whether they would like any amendments to it.

Potential course of action for the PCC

32. The PCC is considering a series of actions around the implementation of his responsibilities around this piece of legislation:
 - That the Home Office's suggested CR Document (see above) is utilised as his draft for consultation.
 - That the views of the public are sought regarding this draft by means of a web survey.
 - That the views of partner agencies be collected via the Partner's practitioners group.
 - That the consultation with the Chief Constable will take place at Strategic Assurance Board following the completion of consultation with the public and partners and any resulting amendments made to the draft.
 - That a communications plan will be developed around the publication of the CR Document.
 - That all ASB dealt with by "Community Remedy" (including by partner agencies) is recorded on Sentinel, which would be considered by the Strategic Partnership Board.
 - That regular audits take place such that the PCC can have reassurance that the CR process is being applied appropriately.
 - That the "Community Remedy" is continually reviewed by the PCC by means of consultation.

Other Aspects relevant to PCCs

33. The legislation will also introduce a Community Trigger process, this will be the joint responsibility of a number of named agencies ("Relevant Bodies", a list which closely mirrors the membership of Community Safety Partnerships) who must define and implement the process that would apply within each of the Local Authority areas.
34. PCCs are amongst the list of statutory consultees before a Community Trigger process can be implemented. However, whilst any of these consultees can comment on the proposals, the "relevant bodies" are under no obligation to revise their proposals to reflect any such comments.
35. The PCC will await the proposals from the various groupings of "relevant bodies" with the Force area and will feed back any comments following receipt of these.
36. The legislation makes a number of minor corrections to aspects of the Police Reform and Social Responsibility Act 2011 that have been found to require amended wording. These relate to the financial consequences of splitting policing into 2 separate legal entities which were found to have consequences that had not been anticipated at the time that the original legislation was progressed through Parliament.

Implications

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| Financial | This report is an update for the Police and Crime Panel to note. There are no financial implications identified. |
| Legal | As detailed within the report. |
| Equality Impact Assessment | The ASB Bill is sponsored by the Home Office who have not completed an EIA. |
| Risks and Impact | No risks have been identified. |
| Link to Police and Crime Plan | None. |

List of Appendices

Appendix 1 – streamlined ASB toolkit
Appendix 2 – key changes as a result of the Bill

Background Papers

Draft of Anti Social Behaviour, Crime and Policing Bill
Introduction of “Community Remedy” – Impact Assessment – Home Office
Reform of anti-social behaviour powers - Draft guidance for frontline professionals – Home Office

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