

Report to: **South Hams Executive**

Date: **19 October 2017**

Title: **Consider the adoption of a policy in relation to dealing with Anti-social behaviour and the adoption of Public Spaces Protection Orders**

Portfolio Area: **Customer First Cllr. Hopwood Commercial Services.**

Wards Affected: **All**

Relevant Scrutiny Committee: None

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: Recommendation to Full Council that the orders and policy are adopted for implementation on the 1st January 2018.

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Recommendations:

1. That the Executive consider the proposed Anti-social behaviour policy, and recommend that it is adopted by Full Council.
2. That the Executive recommend to Full Council that the Public Spaces Protection Orders (PSPOs) are adopted by Full Council for implementation on the 1st January 2018.
3. That the Executive recommend to Full Council that the penalty set on a fixed penalty notice is set at £100 for all offences covered by the Anti-Social Behaviour, Crime and Policing Act 2014.
4. That the Executive recommend to Full Council that a budget of £5,000 is made available for the advertisement of the PSPOs.

1. Executive summary

- 1.1 In 2014 the legislation surrounding the control of dogs and consumption of alcohol was amended by Government through the Anti-Social Behaviour, Crime and Policing Act 2014.
- 1.2 Within 3 years of the date of enactment the previous dog control orders and alcohol designation orders would cease to be enforceable unless converted to Public Spaces Protection Orders (PSPO). This date being 1st October 2017.
- 1.3 The legislation also amended the powers we have to deal with other anti-social behaviour issues and gave the Council greater powers to act quickly where necessary.
- 1.4 The policy in the annex is an enforcement policy for anti-social behaviour and discusses how we expect officers to use these powers when dealing with complaints.

2. Background

- 2.1 The Anti-social Behaviour, Crime and Policing Act 2014 (the Act) has provided the Council with the powers necessary to help communities blighted by anti-social behaviour. The powers are discretionary and not statutory but can be used as part of a toolkit to solve problematic issues for our communities.
- 2.2 The powers granted to the Council include the power to issue; community protection notices, public spaces protection orders and to seek criminal behaviour orders (further information on the powers can be found in the policy).

The powers are quite significant and breaches can lead to fixed penalty notices, prosecutions and even for the most significant offences jail terms.

- 2.3 The legislation and associated guidance from the Home Office provides examples where the powers could be of use, and this ranges from controlling the impact of drug abuse, noise problems, and graffiti but it also has included the ability to control the spread of noxious weeds such as Japanese Knotweed. Therefore the scope of the powers is vast and the enforcement policy in appendix A will help steer officers and the Council in decision making.
- 2.4 Section 59 of the Act gives powers to local authorities to issue a Public Spaces Protection Order to respond to concerns about ongoing behaviour in an area that is having an unacceptable impact. Before an order can be made two conditions must be met:
- 2.5 Behaviour must be causing, or likely to cause, a damaging effect on the quality of life to those in the area
- 2.6 Behaviour must be, or likely to be, persistent or continuing in its unreasonable nature

Once satisfied that these conditions are met the Council must then carry out consultation with the Police and local representatives as well as land owners before the orders can be made.

- 2.7 In the last 18 months that Council has held 3 consultation exercises in relation to proposed PSPOs, the first consultation in 2016 was in relation to the replacement of existing dog control orders. Following consultation the proposed restrictions and areas to be covered were amended having considered the responses from the public. The proposed order is contained in appendix B to this document.

Following consultation with the Police, maps for a proposed PSPO to cover the consumption of Alcohol were produced, these were circulated to all Town and Parish Councils. Additional areas were requested by through this process with evidence of the need. The proposed order is in appendix C.

During this consultation Kingsbridge Town Council identified concerns in relation to the playing of ball games around the bandstand and anti-social behaviour associated with the use of Quay car park. A full public consultation was held on proposed PSPOs to cover these issues which closed on 13th October, a draft order is located in appendix D and we will be able to give a verbal update on the consultation at the meeting.

- 2.8 A person who breaches a PSPO can be dealt with formally by either a fixed penalty notice or a prosecution can be brought. In regards to fixed penalty notices (FPN) the level of fine is set by this Council and can be up to £100, the FPN can also stipulate two amounts to allow credit for earlier repayment. It is proposed to set a single fine of £100, as it demonstrates the severity of breaching an order and the officer time required in enforcing these orders.

The enforcement policy proposed steers officers to a staged approach to enforcement and issuing an FPN should be seen as a last resort where the offender has left the officer with no other option. Persistent offenders would probably be better dealt with through a prosecution, and then escalated to through the ASB process.

- 2.9 Once granted an order lasts for up to 3 years, but it can be extended with agreement of the Council as long as the tests of necessity are still met. We will advertise the orders, and it is proposed that we use signage in line with the designs that other Councils have used to do this, as well as placing them on our website.

In order to produce the signage and install them we request that a budget of £5000 is found in this financial year (i.e. 17/18), to be administered by the Environmental Health Community of Practice Lead, but to be used by both environmental services and environmental health for the purposes of producing the metal signage. Once produced we will need to maintain the signage so we ask that any surplus is rolled over to the next financial year.

3. Outcomes/outputs

- 3.1 In order to strike the right balance between protecting the needs of the wider community from the impact of anti-social behaviour, and an individual's right to a normal life it is important that our enforcement policy provides the right flexibility and guidance to officers and the Council. Good practice dictates that enforcement should be a last resort and it is believed that this policy does

achieve this. Therefore we suggest that the policy is recommended to be adopted by full council with immediate effect.

- 3.2 In order to have continuing control over unacceptable behaviour associated with irresponsible dog ownership and the consumption of alcohol in public places we need to adopt a PSPO to cover these issues. We recommend that the proposed orders are adopted by full Council, with an implementation date of 1st January 2018.
- 3.3 Furthermore having consulted with Kingsbridge Town Council they have identified behaviour that they are concerned about. Members, having heard the outcome of the public consultation should determine whether to support the introduction of PSPOs to control ball games and anti-social car use at Kingsbridge Quay, with an implementation date of 1st January 2018.
- 3.4 In order to enforce the PSPOs by way of fixed penalty notices we must set the scale of fine, and it is recommended that this is set at £100.
- 3.5 In order to adequately advertise the new public spaces protection orders, we will need to provide signage in the areas covered by the orders. The cost of this will be approximately £5000, which includes the cost of printing the signs and maintaining them. There is no identified current budget for this work and therefore one will need to be found.

4. Options available and consideration of risk

- 4.1 As the powers contained within the Anti-social behaviour, crime and policing act 2014 are discretionary and not statutory there would be the option to not enforce the legislation. However the issue of anti-social behaviour associated with irresponsible dog control and alcohol are of concern to the public and without the proposed orders we will be left with limited powers to help.
- 4.2 The proposed anti-social behaviour policy provides guidance on when it is appropriate to take formal action and seek to obtain future PSPOs. It is based on good practice from elsewhere and reflects how we currently enforce other pieces of legislation. It is believed to strike the right balance between enforcing problems that are causing or likely to cause significant harm and preventing the need to carry out formal enforcement; which should always be seen as a last resort.

Members may wish to alter the policy but when doing so be mindful that the impact of altering the policy may significantly impact on this balance.

- 4.3 The fine of £100 proposed for fixed penalty notices is believed to be appropriate due to the staged approach to enforcement and the cost of enforcing against anti-social behaviour. The level of fine must act as a deterrent against unwanted behaviour.
- 4.4 In relation to the advertisement of the orders, there is no formal guidance on how this should be done. Different local authorities have met the requirement in multiple ways with some just advertising them on their Council website. However part of the deterrent from breaching the orders will be knowing that you are within an area covered by an order, and it is believed that this best achieved through the use of metal signage affixed in suitable locations. Both East Devon

and Exeter have recently undertaken this exercise and a template design for the signage has been shared as good practice. It is proposed we follow their lead in the design of our signs.

- 4.5 In respect of dog control, consultation has been undertaken with all Parish and Town Councils to ensure that any required changes to restrictions or the wish to add or delete specific areas to the Order have been addressed before the PSPO becomes operational.

5. Proposed Way Forward

- 5.1 That the Executive recommend to full Council that the anti-social behaviour policy, and public spaces protection orders are adopted for implementation on the 1st January 2018.

- 5.2 That the fine for the issuing of a fixed penalty notice be set at £100.

- 5.3 That the Council recognises the budgetary pressure posed by the need to advertise the orders and a sum of £5,000 is made available to pay for this from the Community, Parks and Open Spaces Earmarked Reserve.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Anti-Social Behaviour, Crime, and Policing Act 2014 introduced a number of powers to Local Authorities to tackle unacceptable behaviour within their area.</p> <p>The powers range from the issuing of community protection notices, and public spaces protection orders to the seeking of criminal behaviour orders.</p> <p>Enforcement should always be viewed as a last resort, and a staged approach; as suggested within the policy, reflects the balance between tackling anti-social behaviour and protecting an individual or individuals from being persecuted.</p> <p>Where enforcement is necessary there will be a need to consider prosecution. Likewise notices and orders can be appealed against, and costs could be awarded against the Council where there is insufficient evidence to demonstrate a need.</p>
Financial		<p>The need to advertise the orders is a budgetary pressure and an amount of £5,000 from Community, Parks and Open Spaces Earmarked Reserve.</p>

		There will also be a cost associated with defending against appeals and enforcing against orders or notices. This is not a new pressure, but is part of the existing work of both Environment Services and Environmental Health.
Risk		There is a reputational risk to the Council if the powers are abused or under-utilised. The proposed policy seeks to provide sufficient guidance to ensure that decisions made are appropriate.
Comprehensive Impact Assessment Implications		
Equality and Diversity		There is a potential risk that certain ethnic groups could be the subject of complaints, the policy seeks to ensure that the powers are not used inappropriately and puts safeguards in place to ensure that
Safeguarding		There is the potential to use the powers to ensure vulnerable groups are protected from harm, but similarly the enforcement policy seeks to ensure that there are adequate safeguards to ensure that vulnerable persons are not unfairly enforced against.
Community Safety, Crime and Disorder		The use of powers forms part of our partnership working approach with the police and social landlords to tackle ASB and promote community safety.
Health, Safety and Wellbeing		The enforcement of the orders could lead to confrontation, however appropriate training will be provided to authorised officers to off-set this risk.
Other implications		

Supporting Information

Appendices:

- A: Anti-social Behaviour Policy
- B: Proposed Public Spaces Protection Order (Dogs) 2018
- C: Proposed Public Spaces Protection Order (Alcohol) 2018
- D: Proposed Public Spaces Protection Order (Ball Games) 2018
- E: Proposed Public Spaces Protection Order (Anti-social Car Use) 2018

Background Papers:

Home Office, Anti-social Behaviour, Crime and Policing Act 2014:
Reform of anti-social behaviour powers Statutory guidance for frontline professionals, July 2014

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	Yes

SLT Rep briefed	Yes
Relevant Exec Director sign off (draft)	Yes
Data protection issues considered	Yes
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	N/A