

Public Document Pack

OVERVIEW & SCRUTINY PANEL

Minutes of the meeting held on 25 April 2017 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor D Saunders (Chairman); Councillors Ashbee, Campbell, Connor, Curran, Dennis, Dexter, Falcon, Hayton, Jaye-Jones, Parsons and Rusiecki

In Attendance: Councillors L Fairbrass and M Saunders

107. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Glenn Coleman-Cooke.

108. DECLARATIONS OF INTEREST

There were no declarations of interest.

109. MINUTES OF PREVIOUS MEETING

Councillor Campbell proposed, Councillor Connor seconded and Members agreed the minutes as a correct record of the meeting that was held on 14 February 2017.

110. MINUTES OF EXTRAORDINARY MEETING

Councillor Campbell proposed, Councillor Jaye-Jones seconded and Members agreed the minutes as a correct record of the extraordinary meeting that was held on 02 March 2017.

111. CABINET MEMBER PRESENTATION - THE NEW ANTI-SOCIAL BEHAVIOUR TOOLS

Councillor Lin Fairbrass, Deputy Leader and Cabinet Member for Community Services introduced the item and handed over to Jessica Bailey, Community Safety Team Leader to lead the discussion with a power-point presentation. Ms Bailey made the following points:

- The new Anti-Social Behaviour Tools and Powers were a welcome development of the legislation because they have helped streamline the enforcement process of antisocial behaviour regulations;
- When considering Anti Social Behaviour volumes, it was also important to consider the relationship alongside deprivation, population density and unemployment;
- Although Thanet had the highest incidents of reported antisocial behaviour cases in the county, the recent trend was showing a reduction in antisocial behaviour of 16% which was well above the county average of 8%;
- To better understand Thanet's performance, an analysis of most similar groups outside the county would show that when compared to areas of similar demographics, Thanet was showing stable figures over the last two years, since the new legislation, figures were slightly above average;
- Benchmarking with other Kent districts would show that Thanet District Council was ahead of other councils in terms of enforcement and use of the new tools and powers;
- Case study examples of how each tool and power had been utilised in Thanet were given and are set out below.

Community Triggers

- The new legislation also brought in 'right to review' cases of Anti Social Behaviour if the threshold was met. (3 reports made within a 6 month period);
- Thanet has only received 5 trigger applications and of those, only 1 out of 5 that were submitted met the threshold;
- 3 recommendations were then made.

Civil Injunctions

- There had been 5 successful applications to date;
- 4 such injunctions had been successfully enforced;
- 1 injunction was still going through the courts;
- There can be positive outcomes from enforcement using civil injunctions.

Criminal Behaviour Orders

- There were various enforcement actions that could be used and these included geographic restrictions, named and group non association restrictions, carrying items restrictions and alcohol consumption in public.

Communication Protection Notices

- This is a new flexible two stage notice issued by Council or Police officers;
- Unlike previous orders it can be issued by officers without having to go to court;
- If breached it enables the forfeiture or seizure of items being used to cause a nuisance;
- Warning notices are issued on the spot if required, and are then in place for up to six months;
- If breached then a formal notice is then issued, if this is breached then a fine can be issued and it becomes a criminal matter for further court prosecution;
- Currently this tool was eliciting a 90% positive response rate. This meant that the nuisances were often being resolved before further enforcement actions are required;
- 59 such notices had been issued so far (at the time of producing the presentation);
- This tool has also facilitated cross departmental working (for example working on an issue between Community Safety, Planning and Housing).

Premise Closure

- The Council and Police can apply for premises closures as a measure to tackle antisocial behaviour on premises being used to cause nuisance or disorder;
- To date the Police have had cause to issue two closures in Thanet.

Police Dispersal Powers

- 82 orders had been initiated (at the time of producing the presentation);
- These were effective for 48 hours and could be rolled over; but the requirement to case build and consult with the council was no longer in place;
- This enables a quicker response to get additional controls in place.

Public Space Protection Orders

- This tool will replace existing Designated Public Places Orders and Dog Control Orders and could be used to prevent alcohol consumption in public spaces;
- There had to be some evidence of the nuisance to justify such enforcement;
- Council would need to work closely with the Police to enforce such orders following a period of consultation;
- No orders are currently in place although evidence is being gathered to transition into the new arrangements.

Next Steps

- **Challenges:** There were some challenges during the transition from the old legislation to the new one, particularly as regards the transition of existing orders;
- The case law being used to amend these new powers are very new;
- These powers were still new to councils, courts and residents and it may take some time to familiarise with the legislation and understand the use and application of case law as changes were evolving;
- **Opportunities:** These powers were quicker and easier to enforce in order to change behaviours that were impacting on communities.

In response to the presentation Members of the Panel made some comments and raised questions as follows:

- Drinking, drug peddling and drug taking in some parts of the district were an issue of concern to the community. Was there any enforcement action that can be taken by the council?
- Was the new legislation more resource demanding for Councils?
- Was the public aware of the new legislation in particular the community trigger facility at their disposal?
- Could the PowerPoint presentation be circulated to Members?
- Could the new powers be used to tackle nuisances caused by excessive night time drinking?
- Could these powers be used to take parking on pavements enforcement?
- TDC should explore the option to come up with trades waste agreements with businesses which can bring in income for the council whilst managing waste in a more trade efficient way;

Ms Bailey gave the following responses:

- The new powers could be used for enforcement related to drug offences and alcohol misuse. However such actions would have to be based on evidence collection and be in consultation with Police in case criminal offences were being committed;
- The old legislation was more resource intensive compared to the new streamlined notices, particularly the Community Protection Notices. Previously the council had to build a case on collection of significant amounts of evidence and be reliant on the courts, where witnesses were reluctant to testify in some instances. Now councils can go ahead and enforce based on officer reports without the need for more lengthy court processes;
- The new powers and tools were widely publicised and adverts were put out by the Police & Crime Commissioner. Information relating to the Community Trigger, alongside how to apply, is on both the TDC and Community Safety Partnership web pages and was circulated at Neighbourhood engagement Meetings when it commenced;
- The presentation would be circulated to Members (**post meeting note: the presentation has been attached as an annex to this minute item**);
- The new powers could be used to serve a notice on an operator if evidence was collected that pointed to a nuisance as a result of excessive drinking;
- The council have signed up to be part of a network that shares best practice on the use and application of the new tools and powers;
- Parking on pavements was the responsibility for Operational Services (Enforcement). However Community Safety worked with the Operational Services directorate on such issues if the incidents were considered to be antisocial behaviour related (in their persistency).

Rob Kenyon, Director of Community Services added the following comments:

- With regard to excessive night time drinking, the Police and Community Safety Partnership were working on initiatives to identify the causes of the issues associated with this part of the night time economy and to find workable solutions;
- The issue of local trades waste agreement initiatives would be taken up with Operational Services for their consideration.

The Chairman thanked Jessica Bailey, Rob Kenyon and Councillor Lin Fairbrass for the presentation.

112. RESPONSES FROM CABINET TO OVERVIEW & SCRUTINY PANEL RECOMMENDATIONS

Members noted the report.

113. REVIEW OF PUBLIC SPEAKING AT OVERVIEW AND SCRUTINY PANEL MEETINGS

Nick Hughes, Committee Services Manager introduced the item. He reported that although there had not been a huge uptake for public speaking, when the facility had been used, the administration of the scheme had not been a burden on Democratic Services and the Panel had found the expression of views by the public useful.

Mr Hughes suggested that the pilot scheme could be renewed for another year and Communications could advertise the scheme via the Council's twitter account. Members suggested that the requirement to register in advance to speak should be made more flexible so that an individual could have until the point at which the item is due for discussion at the meeting to request to speak.

Members noted the report and agreed that the public speaking pilot scheme be extended for a further year, subject to Full Council approval.

114. REVIEW OF OSP WORK PROGRAMME 2016/17

Members agreed to drop the item on Winter Gardens from the list of issues under the Panel's watching brief. Members also noted the report.

115. FORWARD PLAN AND EXEMPT CABINET REPORT LIST FOR PERIOD 05 APRIL 2017 - 30 NOVEMBER 2017

Members requested that a report on one of the Forward Plan items, 'To decide on the future capital development of the Council's CCTV system,' be presented to the Panel on 23 May before Cabinet considered the issue on 15 June.

The Panel also requested that the item on 'New on and off street parking schemes,' which will be considered by Cabinet on 27 April 2017, be brought to the Panel after the anticipated public consultation had been concluded and before the issue was brought back to Cabinet.

Meeting concluded: 8.00 pm

Overview and Scrutiny Panel

25th April 2017

ASB tools and powers

Jessica Bailey : Community Safety Team Leader



Anti Social Behaviour

“Conduct that has causes, or is likely to cause, harassment, alarm or distress”

OR

“Conduct capable of causing housing related nuisance or annoyance”

(ASB, Crime and Policing Act 2014)

- ⇒ Neighbour nuisance
- ⇒ Street drinking
- ⇒ Flytipping

- ⇒ Graffiti
- ⇒ Misuse of public space
- ⇒ Nuisance dogs

What is NOT Anti-Social Behaviour?

- Occasional problems – eg. one off parties
- Day – to – day domestic activity
- Children playing in public



Anti Social Behaviour levels

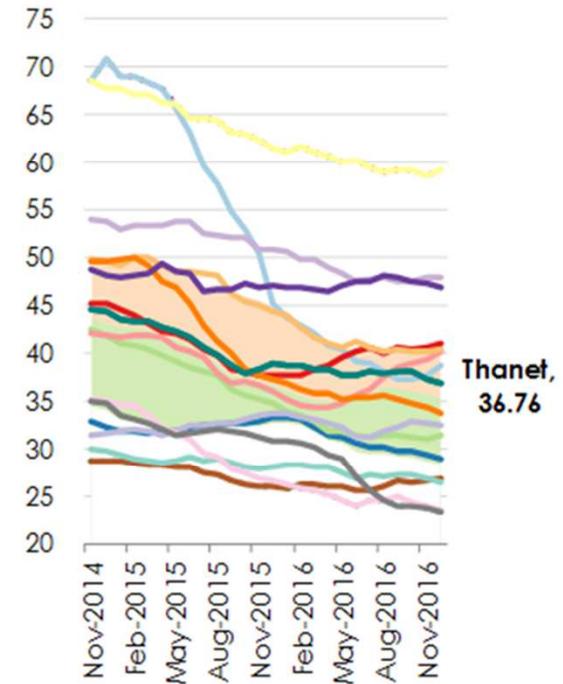
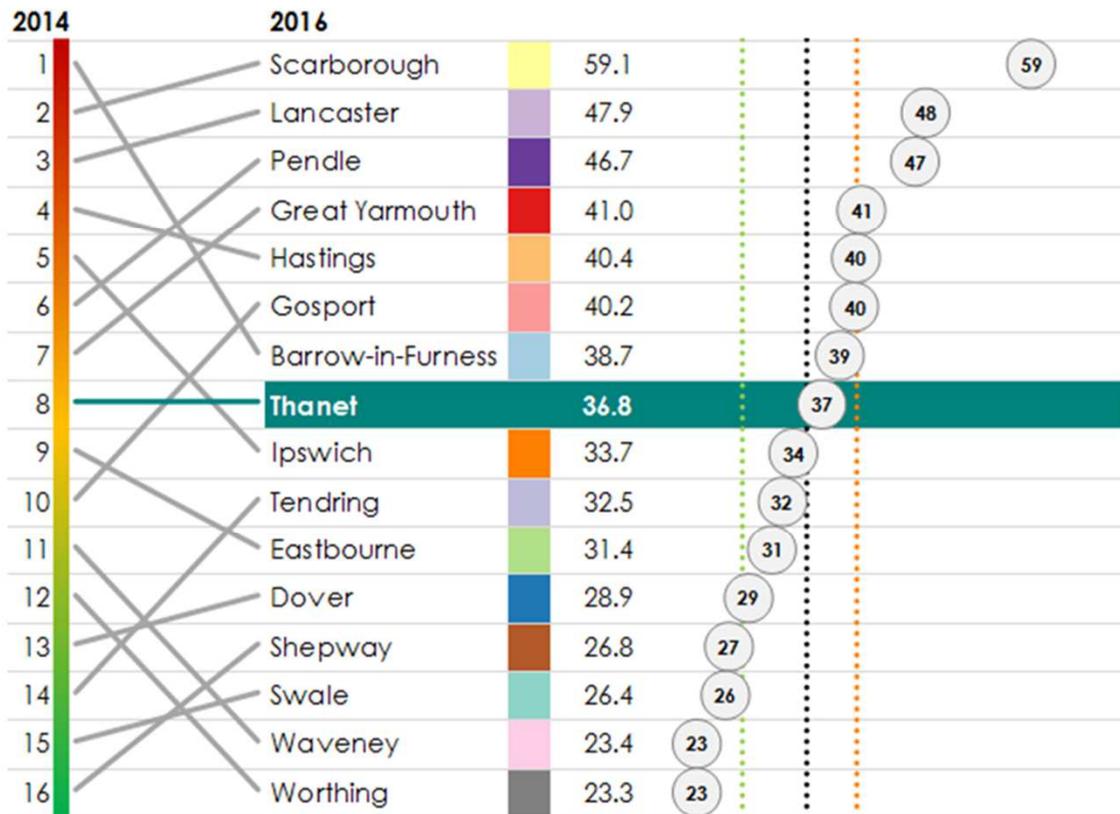
District	Oct-14	Trend	Dec-16	% change	Population	Rate per 1000 of the population					
						15	20	25	30	35	40
Ashford	1822		1920	5%	124,300	15	15				
Sevenoaks	2142		1953	-9%	118,400	16	16				
Tonbridge & Malling	2542		2358	-7%	125,700	19	19				
Tunbridge Wells	2331		2212	-5%	116,200	19	19				
Maidstone	3714		3680	-1%	164,500	22		22			
Canterbury	4395		3691	-16%	160,000	23		23			
FORCE	50133		46036	-8%	1,801,200	26		26			
Swale	4170		3803	-9%	142,400	27		27			
Shepway	3190		2983	-6%	110,000	27		27			
Dartford	2902		2945	1%	103,900	28		28			
Dover	3698		3295	-11%	113,200	29		29			
District Total	50042		45939	-8%	1,524,700	30		30			
Gravesham	3621		3257	-10%	106,300	31		31			
Medway council	9289		8640	-7%	276,500	31		31			
Thanet	6226		5202	-16%	139,800	37					37

Kent Police Published Data (Oct 14 - Dec 16)



Anti Social Behaviour – most similar group comparison

Anti-social behaviour - Crimes per 1,000 of the population - Ranking



Data

Crime Data

Source

<https://data.police.uk/data/>

Population Data

<https://www.ons.gov.uk/>

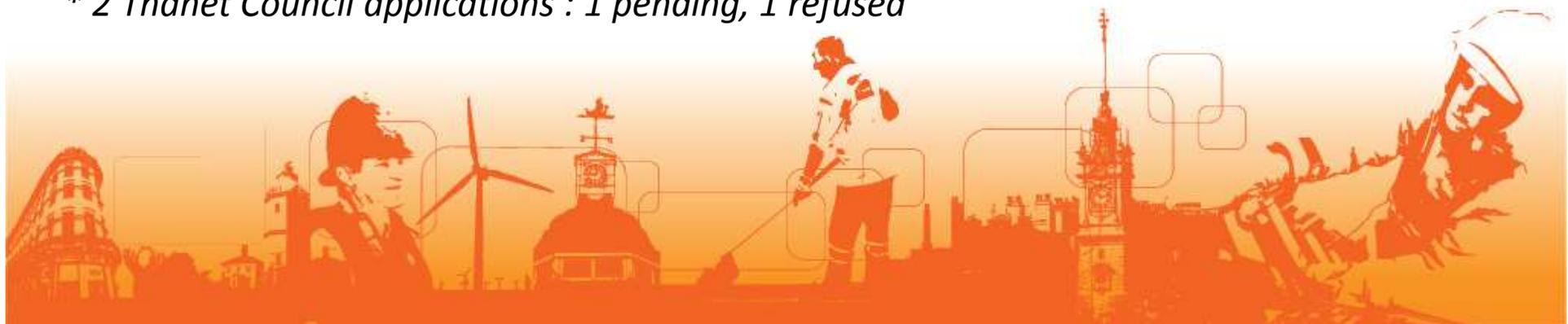
CIPFA Nearest Neighbour Benchmark

<http://www.cipfastats.net/resources/nearestneighbours/>

District Benchmarking – Use of ‘new’ ASB tools powers (where available)

	Thanet	Dover	Shepway	Swale	Canterbury	Maidstone
CPNW	72 (Council) 2 (Police)	10	4	5	40	4 (Police)
CPN	9 (Council)	0	2	1	13 (Police)	2 (Police)
Injunction	4	u/k	1	0	1	0
Closure	2	u/k	2	1	1	0
CBO	5 (Police) *	u/k	2	1	2	1
PSPO	0	1	2	0	0	1

* 2 Thanet Council applications : 1 pending, 1 refused



OLD

NEW

Anti-Social Behaviour Order (ASBO)
ASBO on Conviction
Drinking Banning Order (DBO)
DBO on Conviction
Anti-Social Behaviour Injunction (ASBI)
Individual Support Order (ISO)
Intervention Order



Civil Injunction
Criminal Behaviour Order (CBO)

Litter Clearing Notice
Street Litter Clearing Notice
Graffiti/Defacement Removal Notice
Designated Public Place Order
Gating Order
Dog Control Order
ASB Premises Closure Order
Crack House Closure Order
Noisy Premises Closure Order
Section 161 Closure Order



Community Protection Notice (CPN)
Public Spaces Protection Order (PSPO)
Closure Powers

Section 30 Dispersal Order
Section 27 Direction to Leave



Dispersal Powers



Community Trigger

- Right to apply for ASB case review
- Responsible authorities for case review :
Council, Police, Social Landlords, Clinical Commissioning Groups
- Agreed county process:
Threshold: 3 or more incidents reported to any of the agencies within 6 month period
- Review conducted within 25 days and recommendations made (if threshold met)

⇒ 5 applications

⇒ 1 met threshold

⇒ 3 recommendations made



Civil Injunctions

: To prevent individuals from engaging in ASB quickly, setting requirements through the court as boundaries, before behaviours escalate.

- February 2015
- Civil order (pre criminal) court decides
- Age 10+
- Lower level of proof
- Prohibitions and positive requirements
- Power of arrest can be attached
- Max penalty on breach: unlimited fine, 2 years imprisonment



Civil Injunctions: Case Study

5 successful applications : 5 applied for (1 Police 4 TDC)

⇒ 1 aged 16-18 , 4 over 25

⇒ All still current (2 years)

⇒ 1 breached and prosecuted : night in custody

⇒ Current application in court for 1, case builds on further 4

Types of requirements :

⇒ Geographical restrictions, restricting camping, street drinking, urinating in public, storing bedding in public, aggressive begging, alcohol consumption in public

+ To engage with service providers , turning point, drug, alcohol, dog warden,



Criminal Behaviour Orders

: To tackle serious ASB on the most persistent individuals, who are engaged in criminality

- October 2014
- Must be charged with any criminal offence to apply for CBO
- Court decides
- Can be applied to u18s
- Prohibitions and positive requirements
- Breach: 5 years imprisonment



Criminal Behaviour Orders

4 successful applications :

- ⇒ 7 applied for (5 Police 2 TDC – 1 currently in court)
- ⇒ 3 aged 16-20 , 1 over 50
- ⇒ 2 still current (2 expired after 12 months)
- ⇒ 2 breached and prosecuted
- ⇒ Current case builds on 5 further individuals

Types of requirements :

- ⇒ Geographical restrictions, named and group non associations
- ⇒ Restriction of carrying items, alcohol consumption in public
- + To engage with service providers to support desistance



Criminal Behaviour Order: Case Study

Nuisance youths – on Police conviction of public order offences

- Example requirements obtained:
 - ⇒ Not to be found drunk in a public place
 - ⇒ Not to be in possession of alcohol
 - ⇒ Not to enter specific places – defined by boundaries
 - ⇒ Not to associate with specified people
 - ⇒ Not to enter specific properties
 - ⇒ Not to congregate in a group of 4 or more
- Positive requirements:
 - ⇒ Engage with specified support services
 - ⇒ Attend educational provision
 - ⇒ To accept referral to addiction drug / alcohol support
 - ⇒ Attend early help sessions as specified



Community Protection Notice

: To tackle persistent ASB having a detrimental effect on quality of life

- October 2014
- Can be issued on individuals, businesses, property owners or organisations
- Formal notice issued by officers (Police or Council)
- Warning notice issued first
- Specifies requirements to stop and start doing
- Breach is a criminal offence
- FPN (up to £100 or court prosecution, up to £20,000 for businesses)
- Enables seizure of items or remedial action taken by Council



Community Protection

Warning

Final Notice

COMMUNITY PROTECTION NOTICE (WARNING)
Pursuant to Section 43(5)(a) of the Anti-Social Behaviour, Crime and Policing Act 2014

THIS WARNING NOTICE IS ISSUED TO:

NAME: _____
ADDRESS/LOCATION: _____

ISSUING OFFICER

NAME: _____
AGENCY: _____
RANK: _____ DATE: _____

TAKE NOTICE This is a formal warning, given to advise you to **STOP** committing **Anti-Social Behaviour**, that is deemed to be having a detrimental impact on the quality of life of others.

The behaviour that you have engaged in is considered **persistent / continuing and unreasonable**

1) _____
2) _____
3) _____

This Notice means that by (Date) _____ Time) _____

You must cease the behaviour stated above

PLEASE NOTE: If you do not comply with this notice and cease the outlined actions you will be issued with a:

COMMUNITY PROTECTION NOTICE
in accordance with Section 43 of the Anti-Social Behaviour and Policing Act 2014.

If you fail to comply with a Community Protection Notice you will be committing further offences and be liable for further prosecution, which could include:

- A fixed Penalty Notice of £80
- Further prosecution and upon conviction liable:
 - To be charged for any repairs for damage caused
 - To forfeit or have assisting items confiscated or seized
 - A fine of up to £2,500 (Individual)
 - A fine of up to £20,000 (Business)



Direct Line: (01843) 577000
E-mail: community.safety@thanet.gov.uk
Our Ref: WK/201642887
Date: 23/09/16

Dear Mr _____

Warning Notice

A COMMUNITY PROTECTION NOTICE COULD BE ISSUED AGAINST YOU
Pursuant to Section 43(5)(a) of the Anti-Social Behaviour, Crime and Policing Act 2014

Take notice that this letter has been sent to you as a warning that a Community Protection Notice may be issued against you following complaints of Anti-Social Behaviour and that Thanet District Council (The Council) is satisfied, on reasonable grounds, that the conduct of George Moses is having a detrimental effect on the quality of life of those living in the locality, and that said behaviour is continuing or of a persistent nature.

This conduct is unreasonable and **must stop immediately:**

- Work within the profession of building or maintenance, unless employed by a company which has been incorporated for at least 5 years.
- Entering residential properties without the consent of the owner.
- Carrying out works on residential properties without the consent of the owner.
- Being aggressive, abusive and causing harassment, alarm and distress to members of the public.

Failure to comply with the actions outlined below will result in The Council issuing you with a Community Protection Notice in accordance with Section 43 of the Anti-Social Behaviour and Policing Act 2014.

Action to be taken	You must do this by
To stop carrying out works on residential properties, _____	Immediately
Engage with Turning Point regarding any alcohol or drug problems you may have until such time that Turning Point take a view that further treatment is not required or necessary.	Immediately
To stop entering residential properties in the district of Thanet without the express consent of the owner/occupier.	Immediately
To stop acting in a manner likely to cause harassment, alarm and distress to members of the public.	Immediately

Please do not ignore this letter. This warning provides you with an opportunity to rectify the situation or modify your behaviour before further legal action is taken against you.

Our Ref: WK/201702787



**YOU ARE NOW SUBJECT TO A
COMMUNITY PROTECTION NOTICE**
ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 Section 43

Take notice that Thanet District Council is satisfied on reasonable grounds that the conduct of:

Of: _____

Is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and that the conduct is unreasonable.

A written warning was given to you on 20th January 2017 advising that a Community Protection Notice (CPN) will be issued if your conduct referred to above, does not cease. Thanet District Council is satisfied that, despite having had enough time to deal with the matter, the warning has not been adhered to and your behaviour and conduct is still having a detrimental effect.

The following has been witnessed on the _____

- Loitering/sleeping in the Victorian Shelter Marine Drive, Margate, Kent, CT9 1DH
- Leaving items in your possession in the _____
- Approaching individuals or groups of people for the purpose of requesting money or gifts.
- Being aggressive, abusive and causing nuisance or annoyance to any member of the public.
- Consuming alcohol in public places.

You are hereby required to comply with the following requirements immediately:

- Engage with the Gateway in Cecil Street, Margate or Porchlight regarding housing needs until such a time that you are in substantive accommodation.
- Engage with Turning Point regarding any alcohol or drug problems you may have until such time that Turning Point take a view that further treatment is not required or necessary.
- Not to enter for any purpose, the Victorian Shelter Marine Drive, Margate, Kent, CT9 1DH
- To not use offensive or aggressive words or behaviour or engage in any behaviours capable of causing nuisance or annoyance to others in the community
- To not encourage others or participate with others in behaviours capable of causing nuisance or annoyance to others in the community.
- To cease sleeping and/or storing belongings in any outdoor shelter or public place.
- To not urinate, defecate or otherwise deposit any bodily fluids in any public place save for designated toilets

It is a criminal offence to fail to comply with this Notice in accordance with Section 48 of the Anti-Social Behaviour, Crime and Policing Act 2014, which may result in a fine and / or further prosecution upon conviction.

Please be aware this act also gives powers to undertake remedial, seizure, confiscation or forfeiture activity as set out under sections 47 – 51.

Date: 26/01/17

Signed:

Designation

Community Protection Notices

⇒ **59 warnings issued** (All TDC : Community Safety & Streetscene)

- 32 : Neighbour disputes, illegal encampments, street drinking, absence of tenancy management!
- 27: Fly tipping , Rubbish contraventions

⇒ 90% compliance rate... so far!

⇒ Only 6 progressed to full notices

⇒ 4 notice breaches > further prosecution

⇒ First notices breaches still being prosecuted



Community Protection Notice: Case Study

- Historic problems with commercial and domestic waste in and around bin storage area.
- Numerous s46 EP Act 1990 Notices served
- Problem resolved for a short time only
- Numerous complaints from residents
- New approach....
- CPW served in November 2016 on and for:
 - ⇒ Public House, Restaurant, Letting Agents, Residents, Owner of the building



Community Protection Notice Issued

Action to be taken	You must do this by
Occupants are to place their domestic waste into the 1280 litre bin provided by Thanet District Council.	Immediately
Occupants are to refrain from dumping domestic waste or household goods into the public area outside your premise.	Immediately
Occupants are to stop dumping domestic waste, household waste onto the pavement outside your premise.	Immediately
Occupants are to stop dumping domestic waste onto the roof at the rear and into the rear garden areas of your premise.	Immediately
Resident domestic and household waste is to be checked for and dealt with immediately	Weekly Check

A Community Protection Notice is a legal sanction. If you fail to comply with the conditions attached to the Notice further action could be taken that may include;

- 1. A Fixed Penalty Notice of £80;**
- 2. Prosecution in the Magistrates Court which could result in;**
On summary conviction a fine not exceeding £2,500 for a person or £20,000 for a business.



Before... and after!



Premises Closure

: To enable Police or Council to quickly close premises which are being used, or likely to be used to commit nuisance or disorder

- Covers residential, business and licensed premises
- 2 stage process, closure notice then order
- Notice by senior officer, Order by court application within 48 hours
- If granted, prevents operation or inhabiting for up to 6 months
- Breach is criminal offence, imprisonment up to 6 months



Case Study: Closure Orders

- Significant calls to Police and Council
- Vulnerable persons address being used for criminal purposes
- Fear of reprisals
- To date, Police have closed **2 premises for 3 months**



Police Dispersal powers

: Police power, once initiated, requires a person to leave a designated area if they are committing or likely to commit ASB

⇒ 82 dispersals initiated

⇒ Solely Police power

⇒ No longer requirement to consult with Local Authority

⇒ 'Immediate', Inspector authority, no lengthy case build

⇒ Maximum of 48 hours (can be rolled over)



Public Spaces Protection Order

: Prohibits specific things done in a restricted area

To stop individuals or groups committing ASB in a public place

- ⇒ Can only be implemented by the Local Authority
- ⇒ Consult with Police and Police Crime Commissioner
- ⇒ Publicise to stakeholders
- ⇒ Can restrict access, associations or activities
- ⇒ Justified and proportionate
- ⇒ Need to ensure enforcement capability or pointless
- ⇒ 3 year duration (with one further 3 year extension only)
- ⇒ £100 'on the spot' FPN (up to £1000 if goes to court)



Public Spaces Protection Order

Will impact existing:

Dog Control Order(s)

- Fouling on any public land
- Taking dogs onto prescribed beaches (between 01 May – 30th Sept)
 - Minnis Bay, Birchington, Viking Bay, Walpole Bay, Cliftonville, Margate and Ramsgate Main sands (24 hrs)
 - Stone Bay, Louisa Bay, Westbrook , West Bay, Westgate and St Mildreds Bay (10am-6pm).



Designated Public Places Order (DPPO)

- Alcohol consumption (when likely to cause ASB & asked not to)
- Breach is criminal offence
- To be enforced by Council and Police



Next steps

Challenges

- ⇒ Transition of existing orders
- ⇒ Review of what's required, consultation, enforcement
- ⇒ New guidance restricts standard or blanket orders
- ⇒ Evolving case law & legal challenges

Opportunities

- ⇒ Quick and flexible to obtain and issue
- ⇒ Broader opportunities for increased use
- ⇒ Planned expansion across departments & other agencies



Questions ?

