Overview and Scrutiny Panel
25th April 2017

ASB tools and powers
Jessica Bailey : Community Safety Team Leader

Thanet Clinical Commissioning Group
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

<table>
<thead>
<tr>
<th>District</th>
<th>Oct-14</th>
<th>Trend</th>
<th>Dec-16</th>
<th>% change</th>
<th>Population</th>
<th>Rate per 1000 of the population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ashford</td>
<td>1822</td>
<td></td>
<td>1920</td>
<td>8%</td>
<td>124,300</td>
<td>15</td>
</tr>
<tr>
<td>Sevenoaks</td>
<td>2142</td>
<td></td>
<td>1953</td>
<td>9%</td>
<td>118,400</td>
<td>16</td>
</tr>
<tr>
<td>Tonbridge &amp; Malling</td>
<td>2542</td>
<td></td>
<td>2358</td>
<td>9%</td>
<td>125,700</td>
<td>19</td>
</tr>
<tr>
<td>Tunbridge Wells</td>
<td>2331</td>
<td></td>
<td>2212</td>
<td>9%</td>
<td>116,200</td>
<td>19</td>
</tr>
<tr>
<td>Maidstone</td>
<td>3714</td>
<td></td>
<td>3680</td>
<td>9%</td>
<td>164,500</td>
<td>22</td>
</tr>
<tr>
<td>Canterbury</td>
<td>4395</td>
<td></td>
<td>3691</td>
<td>-16%</td>
<td>160,000</td>
<td>23</td>
</tr>
<tr>
<td>FORCE</td>
<td>50133</td>
<td>4912</td>
<td>46036</td>
<td>-8%</td>
<td>1,801,200</td>
<td>26</td>
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<tr>
<td>Swale</td>
<td>4170</td>
<td></td>
<td>3803</td>
<td>9%</td>
<td>142,400</td>
<td>27</td>
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<tr>
<td>Shepway</td>
<td>3190</td>
<td></td>
<td>2983</td>
<td>9%</td>
<td>110,000</td>
<td>27</td>
</tr>
<tr>
<td>Dartford</td>
<td>2902</td>
<td></td>
<td>2945</td>
<td>-9%</td>
<td>103,900</td>
<td>28</td>
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<tr>
<td>Dover</td>
<td>3698</td>
<td></td>
<td>3295</td>
<td>-11%</td>
<td>113,200</td>
<td>29</td>
</tr>
<tr>
<td>District Total</td>
<td>50042</td>
<td></td>
<td>45939</td>
<td>-8%</td>
<td>1,524,700</td>
<td>30</td>
</tr>
<tr>
<td>Gravesham</td>
<td>3621</td>
<td></td>
<td>3257</td>
<td>-10%</td>
<td>106,300</td>
<td>31</td>
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<tr>
<td>Medway council</td>
<td>9289</td>
<td></td>
<td>8640</td>
<td>-7%</td>
<td>276,500</td>
<td>31</td>
</tr>
<tr>
<td>Thanet</td>
<td>6226</td>
<td></td>
<td>5202</td>
<td>-16%</td>
<td>139,800</td>
<td>37</td>
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</tbody>
</table>

Kent Police Published Data (Oct 14 - Dec 16)
Anti Social Behaviour – most similar group comparison

Data Source
- Crime Data: 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)

<table>
<thead>
<tr>
<th></th>
<th>Thanet</th>
<th>Dover</th>
<th>Shepway</th>
<th>Swale</th>
<th>Canterbury</th>
<th>Maidstone</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPNW</td>
<td>72 (Council) 2 (Police)</td>
<td>10</td>
<td>4</td>
<td>5</td>
<td>40</td>
<td>4 (Police)</td>
</tr>
<tr>
<td>CPN</td>
<td>9 (Council)</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>13 (Police)</td>
<td>2 (Police)</td>
</tr>
<tr>
<td>Injunction</td>
<td>4</td>
<td>u/k</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Closure</td>
<td>2</td>
<td>u/k</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>CBO</td>
<td>5 (Police) *</td>
<td>u/k</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>PSPO</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

* 2 Thanet Council applications: 1 pending, 1 refused
‘New’ ASB tools and powers

Recap

⇒ ASB Crime and Policing Act 2014
⇒ July 2015 guidance
⇒ Incremental approach
⇒ Task and Finish cross department officer group
⇒ Awareness inputs, staff and members briefings,
⇒ Back office work – administration, books, training
⇒ Processes agreed – cross district, cross agency
⇒ Expertise and best practice - Mallard Consultancy > case law
OLD

- 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

- 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

NEW

- Civil Injunction
- Criminal Behaviour Order (CBO)

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

- Dispersal Powers

- Section 30 Dispersal Order
- Section 27 Direction to Leave
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

Dear [Name],

This Warning Notice is issued to you pursuant to Section 44(1)(a) of the Anti-Social Behaviour, Crime and Policing Act 2014.

The Behaviour that you have engaged in is considered persistent, continuing and unreasonable.

You must cease the behaviour stated above.

This notice means that, should you continue the behaviour stated above, you will be committing further offences and may be liable for prosecution, which could include:

- A Fixed Penalty Notice of £60
- Further prosecution and/or ancillary orders
- To be charged for any repairs for damage caused
- To pay all or any existing debt incurred or to be incurred
- A fine of up to £5000 (individual)
- A fine of up to £2000 (Joint name)

You are hereby required to cease and desist from the behaviour stated above at once.

[Signature]

Date: [Date]
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
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.

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