

## **CABINET**

**16 NOVEMBER 2021**

### **ANTI-SOCIAL BEHAVIOUR AND POLICING ACT 2014 INCLUSION TO THE SCHEME OF DELEGATIONS OF REGULATORY SERVICES**

Portfolio Holder: Councillor Jane Chitty Planning, Portfolio Holder for Planning, Economic Growth and Regulation

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

Author: Ruth Du-Lieu, Assistant Director of Front Line Services

#### **Summary**

This report will seek Cabinet approval to allow Regulatory Services to make further use of the powers in the Anti-Social Behaviour Crime and Policing Act 2014.

#### **1. Budget and policy framework**

1.1. The decision on this matter is within the Council's policy and budget framework and is a matter for Cabinet.

#### **2. Background**

2.1. In March 2014 the Anti-Social Behaviour and Policing Act 2014 Act received Royal Assent and came into full effect on 20 October 2014.

2.2. The Act introduced a number of powers to put victims first which includes the Community Trigger.

2.3. The Act simplified ASB powers. Local Authorities as a result have a wide range of powers to tackle ASB, including the Civil Injunction, the Community Protection Notice, the Public Space Protection Notice, the Spaces Protection Order and the absolute ground for possession.

### 3. Options

- 3.1. This act has been used by the Council since Royal Assent. There is no need to consider other options.

### 4. Advice and analysis

- 4.1. That the Authority be delegated to the Director of Place to exercise and to delegate to officers at an appropriate grade, the functions under the Anti-Social Behaviour, Crime and Policing Act 2014.
- 4.2. A diversity Impact assessment has been completed. There is a potential impact on the aged, disability and low income which is minimal. This is set out in Appendix 1 to the report.

### 5. Risk management

- 5.1. The provisions of this Act have been implemented by the Council since 2014. Members representing all parties have generally accepted its implementation and understand the benefits this Act brings to Medway in terms of dealing with anti-social behaviour within the public realm.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Failure to approve the recommendations of this report	If the Council does not have clear delegation of its functions under the Anti-Social Behaviour and Policing Act 2014, its actions may be subject to legal challenge and review by The Local Government Ombudsman.	Approval of report recommendations	D1

### 6. Consultation

- 6.1. The Anti-Social Behaviour and Policing Act 2014 was consulted on in 2014 when the act was originally adopted.

### 7. Climate change implications

- 7.1. This recommendation has no negative impact on Climate Change within Medway.

### 8. Financial implications

- 8.1. There are no financial implications from the implementation of the recommendations of this report. The fixed penalty notice charges are

included in the annual fees and Charges report. No funding is required in order to implement the proposed recommendations.

## 9. Legal implications

- 9.1. In order to minimise the risk of challenge to the use of any powers by the Council it is necessary to ensure that any adoption of powers and subsequent delegation to officers has a clear audit trail. Following a number of restructures through the Front Line Services teams that trail has become unclear, therefore Cabinet are being asked to agree delegations as set out below.
- 9.2. The Powers contained within the Anti-Social Behaviour Crime and Policing Act are wide ranging and whilst some are designed to tackle issues at an earlier level before they escalate some are legally powerful and require a decision to be taken at a suitable level.
- 9.3. Failure to authorise officers to use appropriate powers can limit the Council's ability to effectively deal with anti-social behaviour and other community issues.
- 9.4. Whilst the Council has the power to exercise these measures enforcement action should be taken in line with Medway Council's Corporate Enforcement Policy, good practice, case law developments and statutory guidance where that has been produced.

## 10. Recommendations

- 10.1. It is recommended that Authority be delegated to the Director of Place and Deputy Chief Executive to exercise and to delegate to officers at an appropriate grade, the following functions under the Anti-Social Behaviour, Crime and Policing Act 2014:
  - (a) Issuing Community Protection Warnings and Notices on behalf of the Council.
  - (b) Issuing Closure Notices on behalf of the Council for up to 24 hours.
  - (c) Issuing Fixed Penalty Notices for breach of any Community Protection Notice or Public Spaces Protection Order.
  - (d) That authority be delegated to the Director of Place as the designated officer of the Chief Executive to issue a Closure Notice under the 2014 Act on behalf of the Council for up to 48 hours.
  - (e) That approval be given to the Council's Community Trigger Protocol.
  - (f) That the amount of Fixed Penalty Notices relating to Fixed Penalty Notices issued under Section 52 and 68 of the 2014 Act is set by the Fees and Charges report.

and such other similar mechanisms that are enacted and developed in the future to enable the Authority to effectively deliver its functions under this Act.

## 11. Suggested reasons for decisions

11.1. The Council has used the Anti-Social Behaviour and Policing Act since its adoption in 2014. The report asks the Cabinet to confirm its adoption and its use by Regulatory Services.

### Lead officer contact

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### Appendices

Appendix 1 - Diversity Impact Assessment Form

### Background papers

None.