

# Portfolio Holder (Community Safety) Decision Making Session

## Agenda

Thursday 14 April 2011

A **Portfolio Holder (Community Safety) Decision Making Session** will be held in Committee Room 1 at Shire Hall, Warwick on **Thursday 14 April at 12.00 noon**.

The agenda will be:

### 1. General

#### (1) Members' Disclosures of Personal and Prejudicial Interests.

Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the item (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.

Membership of a district or borough council is classed as a personal interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.

#### (2) Minutes of previous meeting

To agree the minutes of the meeting held on 5 April 2011 -enclosed

### 2. Response to Government Consultation 'More Effective Responses to Anti-Social Behaviour'.

Report enclosed.

### 3. Any Other Urgent Business

**JIM GRAHAM**  
Chief Executive  
Warwickshire County Council  
April 2011

Cabinet Portfolio Holder for Community Safety: Councillor Richard Hobbs  
[cllrhobbs@warwickshire.gov.uk](mailto:cllrhobbs@warwickshire.gov.uk)

General Enquiries: Please contact Janet Purcell, Executive & Member Support Manager  
Tel 01926 413716 or email: [janetpurcell@warwickshire.gov.uk](mailto:janetpurcell@warwickshire.gov.uk)

The public reports referred to are available on the Warwickshire Web  
[www.warwickshire.gov.uk/committee-papers](http://www.warwickshire.gov.uk/committee-papers)

**Minutes of Portfolio Holder (Community Safety) Decision  
Making Session held on 5 April 2011**

**Present:** Councillor Richard Hobbs Portfolio Holder (Decision maker)

**Other Councillors present:**

**Officers :** Gary Phillips, Deputy Chief Fire Officer  
Janet Purcell – Executive and Member Support Manager

**1. General**

**(1) Members Declarations of Personal and Prejudicial Interests**

Councillor Richard Hobbs declared a personal interest as a member of West Midlands Fire Regional Management Board.

**(2) Minutes of previous meeting.**

**Resolved**

That the minutes of the decision making session held on 4 February 2011 be agreed as a correct record.

**2. The Future of Fire and Rescue Control Services in England Consultation-Response**

Councillor Richard Hobbs considered a report from the Chief Fire Officer setting out a proposed response to the Department for Communities and Local Government on the consultation 'The Future of Fire and Rescue Authorities in England' in which the Government was seeking views on how control services should be structured following the ending of the FiReControl project. Councillor Hobbs stated that he had given this careful consideration and agreed the proposed response set out in the report.

**Resolved**

That the response to the consultation document ' The Future of Fire and Rescue Control services in England' be approved as set out in the report and submitted to the Department for Communities and Local Government.

**3. Any other items**

None.

.....  
Portfolio Holder (Community Safety)

The meeting rose at 12.35 p.m.

**AGENDA MANAGEMENT SHEET**

**Decision making session**      **Portfolio Holder (Community Safety) Decision Making Session**

**Date of Decision**                      **14 April 2011**

**Report Title**                              **Response to Government consultation on 'More Effective Responses to Anti-Social Behaviour'**

**Summary**                                      A joint response, prepared on behalf of Warwickshire Police, Warwickshire County Council and Warwickshire Youth Justice Service, to the Government's consultation paper published on 7 February 2011 entitled 'More Effective Responses to Anti-Social Behaviour'.

**For further information please contact:**      Laura Carter (01926 418288 or [lauracarter@warwickshire.gov.uk](mailto:lauracarter@warwickshire.gov.uk)), or Michael Goucher (01926 412835 or [michaelgoucher@warwickshire.gov.uk](mailto:michaelgoucher@warwickshire.gov.uk) ).

**Would the recommended decision be contrary to the Budget and Policy Framework?**      No.

**Background papers**                      The Home Office consultation paper (published 7 February 2011) entitled 'More Effective Responses to Anti-Social Behaviour'.  
This can be found using the following link:  
***<http://www.homeoffice.gov.uk/publications/consultations/cons-2010-antisocial-behaviour/>***

**CONSULTATION ALREADY UNDERTAKEN:**

Details to be specified

Other Committees                     

Local Member(s)                     

Other Elected Members

Cabinet Member	<input type="checkbox"/>	
Chief Executive	<input type="checkbox"/>	
Legal	<input checked="" type="checkbox"/>	Michael Goucher
Finance	<input type="checkbox"/>	
Other Officers	<input checked="" type="checkbox"/>	Julie Sullivan (WCC Community Safety)
District Councils	<input type="checkbox"/>	
Health Authority	<input type="checkbox"/>	
Police	<input checked="" type="checkbox"/>	Supt Martin McNevin
Other Bodies/Individuals	<input checked="" type="checkbox"/>	Lesley Tregear (Youth Justice)

**FINAL DECISION YES**

**SUGGESTED NEXT STEPS:**

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

## Portfolio Holder (Community Safety) Decision Making Session

14 April 2011

### Response to Government consultation on *'More Effective Responses to Anti-Social Behaviour'*

#### Recommendation

That the response be approved by the Cabinet Portfolio Holder for Community Safety in order that it may be submitted to the Government ahead of the 3 May 2011 deadline for receipt of responses to its consultation paper entitled 'More Effective Responses to Anti-Social Behaviour'.

#### 1. Background

The Home Office published a consultation paper entitled, 'More Effective Responses to Anti-Social Behaviour' on 7 February 2011. The consultation asks for opinions on government plans to streamline the toolkit used to tackle anti-social behaviour, so that the police and partners have faster, more flexible tools. The government's aim is to help professionals and, where necessary, the courts, stop anti-social behaviour earlier and better protect victims and communities.

The proposals include:

- repealing the ASBO and other court orders and replacing them with two new tools that bring together restrictions on future behaviour and support to address underlying problems
- ensuring there are powerful incentives on perpetrators to stop behaving anti-socially
- bringing together many of the existing tools for dealing with place-specific anti-social behaviour
- bringing together existing police dispersal powers for anti-social behaviour into a single police power
- making the informal and out-of-court tools for dealing with anti-social behaviour more rehabilitative and restorative
- introducing a Community Trigger that gives victims and communities the right to require agencies to deal with persistent anti-social behaviour.

The deadline for submitting responses to the government is 3 May 2011.

On 7 March 2011, representatives from Warwickshire County Council's legal and community safety teams met with representatives from Warwickshire Police and Warwickshire Youth Justice Service. The aim of the meeting was to discuss the government's proposals as outlined in the consultation paper. As a result of that meeting, the following response was prepared. It is proposed that this response be submitted to the government on behalf of Warwickshire County Council, Warwickshire Police and Warwickshire Youth Justice Service. (Please note that the

county's district and borough councils have not been directly consulted in relation to this response. However, they are at liberty to submit their own responses to the government, should they so wish).

## **2. Response to the Consultation Paper**

In terms of the government's proposals, Warwickshire's response to each of them is set out below:

### ***1. What do you think of our proposals for reform? In particular, do you think merging existing powers into the new orders proposed is a good idea?***

It is the shared view of Warwickshire County Council, Warwickshire Police and Warwickshire Youth Justice ('Warwickshire') that there are currently too many tools for dealing with anti-social behaviour and that a more simplified and streamlined toolkit would therefore be welcomed. It is Warwickshire's experience that practitioners have tended to use the tools with which they are familiar (such as ASBOs and CRASBOs) and it is felt that many of the less-used tools have little value in terms of their effectiveness in tackling anti-social behaviour.

A key point is the lack of clarity between what is considered criminal and what is considered civil. For example, it is the case that the current ASBO is a civil application, with a criminal standard of proof. It is understood that the Community Protection Order Level 2 is intended to be a civil application with a civil standard of proof. It is important that the criminal/civil distinction is made clear in legislation and guidance.

Further, there are several definitions of prohibited behaviour currently in statute which are very similar: that of harassment in the Protection from Harassment Act 1997; harassment, alarm and distress in the Crime and Disorder Act 1998; and the crime of public disorder, and anti-social conduct in the Housing Act 1996, s153A. These should be harmonised, unless it is Parliament's genuine intention that they be different.

Warwickshire Police also feels that a 6 month time limit on evidence/incidents is problematic, as it can create difficulties in compiling evidence and delivering it to a hearing. This requirement can often mean that compelling material is left outside the ideal six month timeframe.

### ***2. Are there other tools and powers for dealing with anti-social behaviour you think should be repealed? If so, why?***

In the opinion of Warwickshire Youth Justice Service, it would be better to repeal all previous powers and replace them with one set of codified alternatives. If this is not undertaken, the Youth Justice Service feels that there is a danger of having another set of powers to add to what remains. This would not simplify matters for practitioners and may allow the difficulties currently faced regarding the civil/criminal distinction to remain in existence.

**3. Do you think these proposals will reduce bureaucracy for front line professionals? Will they have other benefits as well?**

Broadly, the same amount of work will be involved as before. There will inevitably be an increase in the amount of bureaucracy at the beginning of the new system.

However, one benefit would be the simplification of the system for practitioners. In addition, it will be easier for individuals to understand what the sanctions mean and what will the consequences of their anti-social behaviour will be.

**4. Do you think there are risks related to the introduction of any of the new orders?**

No.

**5. Do you think these proposals risk particular groups being disadvantaged in a disproportionate way? If so, how?**

No.

**6. Because community safety is a non-devolved matter in Wales, are there any specific issues there that should be recognised?**

Inter-operability of the various tools and powers across the border should be seamless.

## **2.1 Criminal Behaviour Order**

**1. What do you think of the proposal to create a Criminal Behaviour Order?**

The Youth Justice Service feels that, if the order is to be a civil order, then the title 'criminal' behaviour order could be problematic.

On another point, it is important that individuals fully understand the sanctions placed upon them. This is particularly the case for young people involved in anti-social behaviour or criminal offences, who may have maturity levels below that of their chronological age.

The imposition of a Youth Rehabilitation Order on conviction for a youth already has the capacity to consider a menu of requirements designed to address the individual's behaviour before the court. It also seeks to address the underlying causes of the individual's behaviour.

The menu of requirements includes: Activity Requirement; Curfew Requirement; Exclusion Requirement; Local Authority Residence Requirement; Education Requirement; Mental Health Treatment Requirement; Unpaid Work Requirement (16/17 years); Drug Testing Requirement; Intoxicating Substance Misuse Requirement; Supervision Requirement; Electronic Monitoring Requirement; Prohibited Activity Requirement; Drug Treatment Requirement; Residence Requirement; Programme Requirement; Attendance Centre Requirement; Intensive Supervision and Surveillance Requirement; Intensive Fostering Requirement.

All of these requirements are designed to provide respite to the community, as well as addressing the needs of the young person.

Youth Justice feels that the suggested legislative change seems to assume that this work is not being undertaken. If courts are concerned that this work is not being undertaken with the young person, they can request a review of the case before the court. In practice, this is seldom requested, as the courts trust in the work of the Youth Offending Teams.

More generally, it is hoped that the additional support element of the Criminal Behaviour Order will have more significant long term impacts on offending behaviour than current options.

However, efforts will need to be made to ensure that an efficient and effective application process is put in place. The terms of the orders should also be given careful consideration. Clear guidance should be provided.

Impact on costs will be an important consideration, and will be likely to vary depending on the nature of the case.

## ***2. Thinking of existing civil orders on conviction, are there ways that you think the application process for a Criminal Behaviour Order could be streamlined?***

Possible ways in which the application process for a Criminal Behaviour could be streamlined include:

- Electronic applications, in the manner of PCOL (Possession Claim Online);
- Standard form applications;
- Standard form directions;
- Standard form interim orders;
- Admission of evidence on an interim basis by way of hearsay *in toto*. This will allow a single officer of the applicant authority to quickly recite the allegations to the court. Since the evidence is not tested in an Interim ASBO according to the test in s.1D Crime and Disorder Act 1998 at present, this will not represent a departure from the current method, nor should it affect the defendant's ECHR article 6 right to a fair trial. Following this will make the application less expensive, and will result in victims only needing to give evidence once at the final hearing.

## ***3. What are your views on the proposal to include a report on the person's family circumstances when applying for an order for someone under 16?***

Warwickshire feels that reports on a person's family circumstances (when applying for an order for someone under 16) should be mandatory. This would allow a fuller understanding of the young person's risk and protective factors, enabling an informed decision to be reached as to whether or not the sanction is best for that individual and what additional support may be needed by them.

However, the Youth Justice Service has a major concern regarding this proposal. It is felt that it would be inappropriate for one 'relevant authority' (defined as being the police, local authorities, registered providers of social housing, and Youth Offending



Teams (for orders relating to young people under 18)) to prepare a report and propose sanctions that could impact on another's resources. Youth Justice also states that it would be inappropriate for a practitioner to carry out an assessment unless qualified to do so.

In addition, Youth Justice feels that it should be noted that this will be a new responsibility for the 'relevant authority' and, as such, will represent a resource issue to that organisation. Assessments on young people and their families cannot be undertaken quickly if they are to produce effective proposals to the court.

**4. Are there other civil orders currently available on conviction you think should be incorporated in the Criminal Behaviour Order? (for example the Drinking Banning Order).**

Yes. Protection from Harassment Injunction, s3 Protection from Harassment Act 1997. However, this may remove the ability of a private citizen to obtain relief. Consideration should therefore be given towards allowing a private citizen to make an application for a Crime Prevention Injunction to preserve this right.

The Drinking Banning Order is also an excellent candidate for inclusion in the Criminal Behaviour Order.

**5. Should there be minimum and maximum terms for Criminal Behaviour Orders, either for under 18s or for over 18s? If so, what should they be, and should they be different for over or under 18s?**

The Criminal Behaviour Order should carry a minimum term. This term should be 2 years for adult defendants. The defendant should nevertheless be able to make an application to the court in that period for revocation of the Criminal Behaviour Order, upon demonstration of sufficient rehabilitation.

However, due to the maturity levels of juvenile defendants and the resultant impact on their ability to understand a long-term intervention, the minimum term should be six months. This would allow for intensive support to be provided where the behaviour is specific to a circumstance – for example, disputes between neighbouring children. This would provide the opportunity to deliver restorative interventions that would support all parties and therefore reduce the likelihood of further anti-social behaviour.

There should also be a maximum term in the case of juvenile defendants. This should be until the defendant attains the age of 18 years where the defendant is under the age of 16, and 5 years from the making of the order for a defendant over the age of 16. The defendant should nevertheless be able to make an application to the court in that period for revocation of the Criminal Behaviour Order, upon demonstration of sufficient rehabilitation.

There should be no maximum term for adult defendants. This will put the onus on the defendant to demonstrate sufficient rehabilitation to justify revocation of the Criminal Behaviour Order.

In addition, variations of orders should be easier to achieve, in order to assure relevance over time in cases where behaviour has altered.

Warwickshire Police feel that evidence of good/bad character should also form part of the proceedings, impacting on the length of the term imposed.

**6. Should the legislation include examples of possible positive requirements, to guide applicant authorities and the courts?**

Yes.

**7. Are there examples of positive requirements (other than formal support provided by the local authority) which could be incorporated in the order?**

- The defendant must successfully complete any course identified to him by a relevant authority.
- The defendant must successfully participate in anger management training at [named facility].
- The defendant must repair, or cause to be repaired, the damage he caused to [damaged place] to the satisfaction of [named victim], or labour on that task for [specified time in hours], whichever shall occur first.

**8. Do you think the sanctions for breach of the prohibitive elements of the order should be different to those for breach of the positive elements?**

No. This will fetter the discretion of the sentencing court, who will be able to take account of the circumstances of the breach.

However, it is felt that there should be effective scrutiny of the action taken by courts in respect of breaches.

**9. In comparison to current orders on conviction, what impact do you think the addition of positive requirements to a Criminal Behaviour Order will have on the breach rate?**

It is logical to assume that this will double the breach rate initially. However, if the positive requirements are sufficiently effective, it will clearly have a beneficial impact on the breach rate. This will particularly be the case if the positive requirements include a restorative element.

**10. In comparison to current orders on conviction, what do you think the impact would be of the Criminal Behaviour Order on i) costs and ii) offending outcomes?**

The impact on costs will be dependent on the nature of the case.

It is hoped that the additional support element of the Criminal Behaviour Order would have more significant long term impact on offending behaviour than current options.

**11. In comparison to current orders on conviction, how many hours, on average, of police and practitioner time do you think it would take to prepare and apply for a Criminal Behaviour Order?**

This is largely dependant on the nature of the offending behaviour, and whether or not the matter is urgent, or is to be applied for *ex parte*.

It should be mentioned, however, that in the first instance at least, there will be training implications, in terms of demand on time and cost, to disseminate changes to

interested parties. Warwickshire Police will have over nine-hundred police officers and a large number of police support staff to re-train, and there will be a wider impact on other partners. It is felt that this is likely to off-set any efficiency saving for sometime.

## **2.2 Crime Prevention Injunction**

### ***1. What do you think of our proposals to replace the ASBO on application and a range of other court orders for dealing with anti-social individuals with the Crime Prevention Injunction?***

It appears to Warwickshire that the proposed Crime Prevention Injunction is essentially an ASBO by another name (although it is conceded that the Crime Prevention Injunction will be a purely civil order).

Warwickshire Police have suggested that the introduction of fixed fee criminal injunctions may be beneficial.

### ***2. Which test should the court apply when deciding whether to impose a Crime Prevention Injunction – that the individual's behaviour caused 'harassment, alarm or distress' or the lower threshold of 'nuisance or annoyance'?***

It is felt that it the legal definition set out in the Crime and Disorder Act 1998 would be preferable. That is, that the individual's behaviour had caused, or was likely to cause, harassment, alarm or distress to one or more persons not of the same household. The lower threshold test of 'conduct causing or likely to cause nuisance or annoyance to a person not of the same household as himself', in conjunction with the lower burden of proof (that is, 'on the balance of probabilities', rather than 'beyond all reasonable doubt'), would arguably widen the scope of the injunction too far.

### ***3. Do you think the Crime Prevention Injunction should be heard in the County Court or the Magistrates Court?***

Both. However, for those under the age of 18 years, listing solely in a magistrates court would ensure that those trained in young people's needs are able to hear the case.

### ***4. If you think that the injunction should be heard in the Magistrates' Court, do you think the Crime Prevention Injunction for those under the age of 18 should be heard in the Youth Court?***

The Youth Court is constituted by statute to hear certain types of matter. To hear Crime Prevention Injunction applications in the Youth Court would require amendment of the current legislation.

The current position with juvenile defendants in Warwickshire Magistrates' Courts is that a youth trained bench hears the application sitting as a Magistrates Court. A decision is taken at the beginning of the matter whether or not to exclude the public.

**5. Should the Crime Prevention Injunction carry a minimum and/or maximum term. If so, how long should these be, and should they be different for over or under 18s?**

The Crime Prevention Injunction should carry a minimum term. This term should be 2 years. The defendant should nevertheless be able to make an application to the court in that period for revocation of the Crime Prevention Injunction, upon demonstration of sufficient rehabilitation.

However, due to the maturity levels of juvenile defendants and the resultant impact on their ability to understand a long-term intervention, the minimum term should be six months. This would allow for intensive support to be provided where the behaviour is specific to a circumstance – for example, disputes between neighbouring children. This would provide the opportunity to deliver restorative interventions that would support all parties and therefore reduce the likelihood of further anti-social behaviour.

There should also be a maximum term in the case of juvenile defendants. This should be until the defendant attains the age of 18 years where the defendant is under the age of 16, and 5 years from the making of the order for a defendant over the age of 16. The defendant should nevertheless be able to make an application to the court in that period for revocation of the Crime Prevention Injunction, upon demonstration of sufficient rehabilitation.

There should be no maximum term for adult defendants. This will put the onus on the defendant to demonstrate sufficient rehabilitation to justify revocation of the Crime Prevention Injunction.

In addition, variations of orders should be easier to achieve, in order to assure relevance over time in cases where behaviour has altered.

Warwickshire Police feel that evidence of good/bad character should also form part of the proceedings, impacting on the length of the term imposed.

**6. Should there be a list of possible positive requirements in the primary legislation to provide guidance to judges?**

Yes.

**7. Are there examples of positive requirements (other than formal support provided by the local authority) which could be incorporated in the order?**

Examples of positive requirements (other than formal support provided by the local authority) which could be incorporated into the order could include: alcohol treatment; restorative justice family intervention assessments.

**8. What are your views on the proposed breach sanctions for over 18s and for under 18s for the Crime Prevention Injunction?**

Warwickshire Police feels that the sanctions delivered by Courts on sentence for breach are of more concern than the statutory maxima available. Guidance to the Magistracy should require a recognition of the impact on victims of the anti-social behaviour, and a reflection of that in the sentence delivered.

Warwickshire County Council feels that the proposed breach sanctions seem more lenient for adults than they do for young people.

It is also felt that there should be effective scrutiny of the action taken by courts in respect of breaches.

**9. In comparison to current tools, what do you think the impact would be of the Crime Prevention Injunction on i) costs and ii) offending outcomes?**

The impact on costs will be dependent on the nature of the case.

It is hoped that the Crime Prevention Injunction would have more significant long term impact on offending behaviour than current options.

**10. What impact do you think the inclusion of positive requirements would have on the Crime Prevention Injunction breach rate?**

It is logical to assume that this will double the breach rate initially. However, if the positive requirements are sufficiently effective, it will clearly have a beneficial impact on the breach rate. This will particularly be the case if the positive requirements enable the defendant to empathise with their victims.

**11. Thinking of other civil injunctions available, how many hours, on average, of police and practitioner time do you think it would take to prepare and apply for a Crime Prevention Injunction?**

This is largely dependant on the nature of the offending behaviour, and whether or not the matter is urgent, or is to be applied for *ex parte*.

It should be mentioned, however, that in the first instance at least, there will be training implications, in terms of demand on time and cost, to disseminate changes to interested parties. Warwickshire Police will have over nine-hundred police officers and a large number of police support staff to re-train, and there will be a wider impact on other partners. It is felt that this is likely to off-set any efficiency saving for sometime.

## **2.3 Community Protection Order**

**1. What do you think of the proposal to bring existing tools for dealing with persistent place-related anti-social behaviour together into a single Community Protection Order?**

Warwickshire's view is that most of the existing systems that the Community Protection Order proposes to change are rarely used. It is felt that some tools (for example, Gating Orders) take too long to process and that a streamlining of the system would be welcomed. However, more information is needed about how the proposed new system will actually change the application process.

It is felt that a crucial element to the success of any new orders will be the ability of agencies to share information. An integrated approach is therefore necessary. A Multi-Agency Risk Assessment could be needed for some high risk cases. However, the impact on resources and the ability to deliver this would need to be considered.

**2. Are there problems with the existing tools you think should be addressed in the Community Protection Order?**

As mentioned, it is felt that some tools (for example, Gating Orders) take too long to process and a more streamlined system would be welcomed.

In relation to Dog Control Orders (one of the existing orders that will come under the umbrella of the Community Protection Order), it is felt that any issues in relation to dog control should be based on how the dog is used; rather than on breed. It can be costly to identify specific breeds of dog – a task that is arguably irrelevant, as it is the anti-social behaviour that is the issue.

**3. Are there other existing tools you think should be included, such as a Special Interim Management Order?**

The Youth Justice Service believes that it would be better to merge all orders into the new ones.

**4. Who should be given the power to use a Level 1 Community Protection Order?**

The power to use a Level 1 Community Protection Order should be open to a variety of professionals, including council and housing association staff, environmental health practitioners and the police.

**5. In comparison to current tools, what do you think the impact of the Community Protection Order would be on (i) costs and (ii) offending outcomes?**

The impact on costs will be dependent on the nature of the case.

It is hoped that the Community Protection Order would have more significant long term impact on offending behaviour than current options.

**6. In your area, is there any duplication of current orders issued to deal with the problems tackled by either level of the Community Protection Order? If so, could you indicate the extent of duplication.**

Duplication has not been observed in Warwickshire.

**7. What impact do you think the introduction of the proposed Community Protection Order would have on the number of orders issued?**

It is Warwickshire's view that this would be very much dependent on the application process.

**8. Thinking of current orders to tackle environmental disorder, how many hours do you think it would take to prepare and issue a Level 1 Community Protection Order? Is this more or less than the time taken to issue current notices aimed at tackling the same problems?**

It is difficult to provide an accurate estimate at this stage. Much would depend on the nature of the case and the operation of the process in practice.

**9. Thinking of the place-related orders that it would replace, how many hours do you think it will take, on average, to prepare, issue, and implement a Level 2 Community Protection Order?**

Gating Orders can currently take up to a year to process, so much would depend on how the application process was streamlined and the evidence needed to support the application, plus any requirement for statutory consultation with associated timescales.

## **2.4 Direction Power**

**1. What do you think of the proposal to combine these existing police powers for dealing with anti-social behaviour into a single Directions power?**

Warwickshire's opinion is that the proposal to combine existing police powers for dealing with anti-social behaviour into a single Directions Power appears to be more of a re-branding exercise than a significant change of substance.

**2. Do you think the power should be available to PCSOs as well as police officers?**

Yes.

**3. What safeguards could be put in place to ensure that this power is used proportionately and does not discriminate against certain groups, particularly young people?**

As "a person asked to leave an area under one of these powers has not committed an offence, but refusal to comply is a criminal offence", caution would need to be applied to ensure that the young person understands what is being asked of them and the consequence of non-compliance. It is easy for behaviours in young people to escalate if not handled appropriately, and this could result in criminal sanctions for behaviour that may only have been deemed to be *likely to cause or contribute to the occurrence or continuance of crime, disorder, or anti-social behaviour in that area*. It is therefore the opinion of Warwickshire Youth Justice Service that, before applying a criminal sanction, an appropriate adult should be present (as would be the case for any criminal process).

More generally, it is believed that the power should be used in a uniform manner, regardless of the sections of society to which the individuals involved belong. There should therefore be clear guidance, setting out the instances in which use of the power would be appropriate.

**4. What do you think would be the most appropriate sanction for breach of the new Direction power?**

Only when someone refuses to leave an area following an instruction from a police officer or PCSO should a criminal offence be committed. Criminalisation should only occur when absolutely necessary.

**5. Thinking of existing powers to leave a locality, how much police and local authority time do you think would be saved by removing the requirement of having a designated area from which to move individuals or groups from?**

It is difficult to provide an accurate estimate of this at this stage.

With regards to unaccompanied young people, returning them home would be the preferred option. However, on occasions, this could take considerable police time.

**6. What do you think the impact would be of removing the need for a pre-designated area on the volume of Directions issued?**

It is difficult to provide an accurate estimate at this stage.

**7. Do you expect there to be a change in the use of the Direction power (compared to the use of existing tools)? If so, what do you estimate the change would be and what proportion of the Direction powers used will be aimed at those under 18?**

It is hoped that there will be sufficient safeguards and guidance in place to ensure that the power is used proportionately and that certain groups are not discriminated against.

## **2.5 Informal Tools and Out-of-Court Disposals**

**1. How do you think more restorative and rehabilitative informal tools and out-of-court disposals could help reduce antisocial behaviour?**

Informal tools and out-of-court disposals provide an opportunity to tailor solutions to suit the case in hand. Ultimately, this can lead to more effective outcomes, with individuals being less likely to be involved in further acts of anti-social behaviour. Individuals can face up to what they have done, take responsibility and make amends. Such methods can therefore serve to prevent anti-social behaviour from escalating.

The Youth Justice Service states that these methods are currently very effective in Warwickshire and have already helped to reduce the number of first time entrants to the youth criminal justice system.



**2. What are the barriers to communities getting involved in the way agencies use informal and out-of-court disposals in their area?**

There is no current forum in which community representatives may deliver an opinion in the way described. However, the Youth Justice Service works with communities on an individual basis to deliver restorative disposals for young people made subject to informal/out-of-court disposals.

**3. Are there any other changes to the informal and out-of-court disposals that you think could help in tackling anti-social behaviour?**

Warwickshire Youth Justice Service has responded to the Green Paper ('Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders'), suggesting one disposal with a 'menu of interventions/requirements' such as that used in the youth restorative disposal in youth courts. This would remove the 'tariff' approach to out of court work, instead looking to ensure that the community is protected and that the needs of young people are addressed.

Warwickshire Police also feel that there should be greater use and links to conditional cautioning.

## **2.6 Community Trigger**

**1. What do you think of the proposal to introduce a duty on Community Safety Partnerships to deal with complaints of persistent anti-social behaviour?**

It is apparent that tolerance levels vary between communities. Therefore, rather than a blanket community trigger, it may be more beneficial to devise victim vulnerability indexes in order to ensure that those most at risk receive the prioritisation they need.

It is also felt that the Consultation Paper does not make clear who the lead organisation should be – the Local Authority, or the Police. It would be helpful to identify this.

In addition, there is no mention of restorative approaches such as mediation. Mediation could prove valuable, both in terms of reducing costs and resolving anti-social behaviour-related issues.

**2. Do you think the criteria for the Community Trigger are the right ones? Are there other criteria you think should be added?**

Warwickshire's view is that there is potential for the Community Trigger system to be abused. There would be a need to invest time and money in dealing with a complaint, when it may just be frivolous. There needs to be very clear safeguards against vexatious complainants.

In the current economic climate, there is also a great deal of pressure on public resources and it may not always be possible to deal with the matter complained of, depending on its nature. It is therefore Warwickshire's opinion that it would be better to state that complaints that meet certain criteria *could* (as opposed to *would*) trigger a collective duty.

**3. Do you think this proposal risks particular groups being disadvantaged in a disproportionate way? If so, what measures could be put in place to prevent this?**

It is observed that intolerance is already an issue in relation to young people and the introduction of the Community Trigger could serve to exacerbate this problem, disadvantaging young people in a disproportionate manner. Using restorative approaches in the first instance could ensure that the community takes responsibility for young people in its locality, rather than excluding them.

The Community Trigger should be used uniformly, with clear guidance put in place.

Report Author: Laura Carter  
Head of Service: Greta Needham  
Strategic Director : David Carter  
Portfolio Holder: Richard Hobbs

April 2011