



# REPORT TO EXECUTIVE

## PORTFOLIO AREA: HEALTH AND COMMUNITY ACTIVITIES

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Date of Meeting: 19 DECEMBER 2005

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Public

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Key Decision: No

Recorded in Forward Plan:

No

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Inside Policy Framework

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**Title:** ANTI-SOCIAL BEHAVIOUR ACT 2003

**Report of:** DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

**Report reference:** LDS.55/05

### Summary:

The report informs the Executive of new powers available to the Police to disperse groups under the Anti-Social Behaviour Act 2003 ("the Act") and proposes delegation arrangements to enable the Council to consent and/or respond to consultation in the use of such powers in appropriate cases.

### Recommendations:

It is recommended that :

1. The Executive note the powers available to the Police under Part 4 of the Anti-Social Behaviour Act 2003 to authorise the use of dispersal powers.
2. Authorise either the Town Clerk and Chief Executive or her Deputy, acting on behalf of the Council, to:
  - i. consent or object in any particular case to the proposed use of such authorisation powers under the Act; and,
  - ii. respond to consultation regarding the proposed withdrawal of an authorisation

subject (where practicable) to prior consultation with the Group Leaders and the Chair of the Community Overview and Scrutiny Committee.

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

3. The Leader amend his Scheme of Delegation accordingly to incorporate the above delegations; and,
4. The Executive inform the Council at its meeting on 17 January next of the proposed arrangements.

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## **1. BACKGROUND INFORMATION**

- 1.1 New powers are available to the Police under Part 4 (Sections 30-36) of the Anti-Social Behaviour Act 2003 to address anti-social behaviour by groups of two or more persons in defined localities.
- 1.2 In circumstances where a Police Officer of the rank of Superintendent or above has reasonable grounds for believing that any members of the public have been intimidated, harassed, alarmed or distressed as a result of the presence or behaviour of groups of two or more persons in public places in any locality in his/her Police area ("the relevant locality"), and that anti-social behaviour is a significant and persistent problem in the relevant locality, then the Police Officer may authorise officers to order the groups to do one or all of the following, namely: disperse; leave the locality; and/or not return for such period not exceeding 24 hours.
- 1.3 An authorisation must be given in writing and must specify the relevant locality; the grounds on which the authorisation is given; and, the period during which the dispersal powers are to be exercised. Furthermore, the authorisation must not be given without the consent of the Council. The authorisation may be withdrawn by the Police Officer who gave it or any other relevant officer whose Police area includes the relevant locality and whose rank is the same or higher than the officer who gave the authorisation but before an authorisation is withdrawn, the Council must be consulted.
- 1.4 The assumptions behind the legislation are based on the proposition that people have a right to feel safe in their communities and that it is unacceptable that the public should be afraid to use public spaces, cash points, shops, parks and the like because they feel threatened by groups of people congregating in an intimidating manner.
- 1.5 The area designated as a dispersal area could be as small as a cash point or shopping arcade where groups gather, or it could be as wide as a whole local authority area, as long as there is evidence of anti-social behaviour.
- 1.6 As stated, the Council must agree to the designation of an area, the grounds on which it is given and the period during which the powers specified by section 30(3) to (6) are exercisable. In circumstances where time permits, this would usually be done through the consultative mechanisms as part of the strategic work of the Crime and Disorder Partnership. However, circumstances may arise where the Police and the local authority have to act speedily to confront anti-social behaviour affecting a particular local community and so appropriate consultation and delegation arrangements will need to be put in place to enable a speedy response from both agencies. The Police have approached the Town Clerk and Chief Executive and asked that the Council make provision to put in place suitable internal governance arrangements so that the authority is able to respond promptly to any Police request in connection with the proposed use of the designation powers and

the consultation and delegation arrangements set out in the recommendations are a suggested mechanism for dealing with any future requests which might be made.

- 1.7 It is suggested that either the Town Clerk and Chief Executive or her Deputy be the designated officers with delegated powers to respond to the Police on the Council's behalf in response to any authorisation request (whether for consent that an area be designated etc or in response to consultation to the effect that an authorisation should be withdrawn). However, because of the wider political implications inherent in the use of the dispersal powers, it is proposed that (where practicable) the three Group Leaders and the Chair of the Community Overview and Scrutiny Committee are first consulted prior to responding to enable appropriate political soundings to be taken, although the delegated authority to respond will rest with the designated officers. It is not anticipated that the Police will seek to use their designation powers as a matter of course but only where the anti-social behaviour and disruption to the local community is such as to warrant designation, but the powers are part of the broader suite of actions available to the Police, acting in partnership with the local authority, to use to tackle anti-social behaviour and therefore they have requested that the Council make suitable arrangements to respond to any requests which might be made to secure that any use of the powers is legitimate and legislatively compliant. The recommendations in this report are designed to achieve this.
- 1.8 The Mechanisms proposed to address anti-social behaviour also accord with the identified Council priorities of Cleaner, Greener and Safer and also further its ongoing aim to work with Partners to improve community life.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 To put in place suitable arrangements to enable the authority to consider any request from the Police to consent/respond to consultation to the use of the dispersal powers under the Anti-Social Act 2003 in a timely manner. The delegations in the recommendations are intended to enable both a prompt response by the Council but also appropriate broad political input into the decision.

## **3. IMPLICATIONS**

- Financial – There are none.
- Legal – The Director of Legal and Democratic Services' comments are set out in this report.
- Corporate – Effective use of powers to address anti-social behaviour is part of the Council's own safer priority for communities.

- Risk Management – Particularising the manner in which authorisations should be given should assist in reducing the capacity for challenges against the use of dispersal powers.
- Equality Issues – Not directly applicable but the Police will need to address the question of whether the use of the powers in any particular circumstances is proportionate.
- Environmental – Creating safer communities and reducing the fear of crime is part and parcel of improving the environmental wellbeing of the community in its broadest sense.

LDS.55.05 – Anti-Social Behaviour Act 2003 December 2005

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## **EXCERPT FROM THE MINUTES OF THE EXECUTIVE HELD ON 19 DECEMBER 2005**

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### **EX.282/05    ANTI-SOCIAL BEHAVIOUR ACT 2003 (Non-Key Decision)**

**Portfolio**            Environment, Housing, Infrastructure and Transport

#### **Subject Matter**

The Director of Legal and Democratic Services submitted Report LDS.55/05 detailing new powers available to the Police to disperse groups of two or more persons in defined localities under the Anti-Social Behaviour Act 2003.

Under the Act, the Council must agree to the designation of an area, the grounds on which it is given and the period during which the dispersal powers are exercisable. In circumstances where time permits, this would usually be done through the consultative mechanisms as part of the strategic work of the Crime and Disorder Reduction Partnership. However, circumstances may arise where the Police and the Local Authority have to act speedily to confront anti-social behaviour affecting a particular local community and so appropriate consultation and delegation arrangements need to be put in place to enable a speedy response from both agencies. The Police are seeking the Council to put in place suitable internal governance arrangements so that the Authority is able to respond promptly to any Police request in connection with the proposed use of the designation powers. Recommendations for consultation and delegation arrangements were set out in the report.

#### **Summary of Options Rejected**

None

#### **DECISION**

1. That the Executive notes the powers available to the Police under Part 4 of the Anti-Social Behaviour Act 2003 to authorise the use of dispersal powers.
2. That the Executive authorise either the Town Clerk and Chief Executive or her Deputy, acting on behalf of the Council, to:

i. consent or object in any particular case to the proposed use of such authorisation powers under the Act; and,

ii. respond to consultation regarding the proposed withdrawal of an authorisation,

subject (where practicable) to prior consultation with the Group Leaders and the Chairman of the Community Overview and Scrutiny Committee.

3. That it is noted that the Leader will amend his Scheme of Delegation to incorporate the above delegations.

4. That the City Council, at its meeting on 17 January 2006, be informed of the proposed arrangements.

### **Reasons for Decision**

To put in place suitable arrangements to enable the Authority to consider any request from the Police to consent/respond to consultation to the use of the dispersal powers under the Anti-Social Behaviour Act 2003 in a timely manner. The delegations in the recommendations are intended to enable both a prompt response by the Council but also appropriate broad political input into the decision.