

## **GUIDE TO THE ANTISOCIAL BEHAVIOUR ETC (SCOTLAND) ACT 2004**

### **1.0 INTRODUCTION & BACKGROUND**

- 1.1 This briefing note has been produced to brief Councillors on the basics of the Antisocial Behaviour Act and give detail on the commencement dates for each of the thirteen parts of the Act.
- 1.2 The Scottish Executive has identified tackling Antisocial Behaviour as one of its highest priorities. The Antisocial Behaviour etc (Scotland) Act 2004 will be the main legislation to ensure implementation of the Executive's policies and strategies in this area.
- 1.3 The Act itself is split into thirteen parts, each of which comes into commencement at different times. To inform of these timescales a 'Guide to the Antisocial Behaviour Act' was published on the 28 October 2004. This document provides a guide to each part of the Act and outlines the commencement dates for each of the thirteen parts. A copy of this document is attached.

## **2 GUIDE TO ANTISOCIAL BEHAVIOUR ACT 2004**

### **2.1 Antisocial Behaviour Strategies**

- 2.1.1 This section details the duty placed on local authorities and relevant Chief Constables to prepare a strategy for dealing with antisocial behaviour in the authority's area.
- 2.1.2 In the Act it is notes the four main aspects the strategy must address:
  - The information that should be contained within the strategy;
  - The consultation process that should be adhered to during the preparation, revision and review of the strategy;
  - The arrangements that should be in place to allow local authorities and chief constables to tackle antisocial behaviour and the mechanisms to exchange information on antisocial behaviour;
  - The process for monitoring, reviewing and reporting on the strategy.
- 2.1.3 This section of the Act was commenced on 28 October 2004. The Perth and Kinross strategy is currently being developed.

### **2.2 Antisocial Behaviour Orders**

- 2.2.1 This section sets out the process involved for requesting and managing the application of an antisocial behaviour order. The Act advises on the extended power to place orders on 12-15 year olds, and the changes that have been made to improve the effectiveness of the orders.

2.2.2 This section of the Act was commenced on 28 October 2004. Within Perth and Kinross, the Council's Antisocial Behaviour Unit and Police work closely on these matters.

### **2.3 Dispersal of Groups**

2.3.1 This section provides advice primarily for the police regarding the circumstances when this provision might be used. The Act has been structured in a way which allows Police Forces to understand the issues involved as to whether or not they should designate an area for dispersal. The provision itself should not be used in isolation and should come into effect where other approaches have been used and the antisocial behaviour has become significant, persistent and serious.

2.3.2 This part of the Act was commenced on 28 October 2004.

### **2.4 Closure of Premises**

2.4.1 This section covers the powers given to police, courts and local authorities in respect of the closing of premises. It provides information on the process involved when police forces require taking action on premises which cause a significant and persistent disorder or serious nuisance to the local community. Furthermore the Act has been designed to aid in exercising these powers effectively and efficiently, to use them in the broader context of tackling antisocial behaviour and to understand the implications of the powers to the affected persons and communities.

2.4.2 This part of the Act was commenced on 28 October 2004.

### **2.5 Noise Nuisance**

2.5.1 The noise management section provides operational advice primarily to Local Authority environmental health officers on the additional powers given by the Act to deal with noise nuisance.

2.5.2 This part of the Act was commenced on 28 October 2004. The Council have applied for funding for these provisions and are awaiting notice from the Executive as to amount awarded. The service provided in this area will therefore be shaped by the funding provided.

### **2.6 The Environment**

2.6.1 This section details the provisions contained in the Act that empowers Local Authorities to serve a notice on those responsible for litter, fly-tipping and graffiti.

2.6.2 This part of the Act was commenced on 28 October 2004.

## **2.7 Housing – Antisocial Behaviour Notices**

- 2.7.1 This section of the Act details the powers given to Local Authorities to deal with landlords of those who cause antisocial behaviour. It ensures that landlords take reasonable steps to manage or alleviate this type of behaviour in relation to the properties they let. It should be noted that this power would be used in addition to any action that might be taken directly against the perpetrators of such behaviour.
- 2.7.2 Practically, in the first instance the Local Authority would work with the landlord to alleviate the problem. However, if they do not respond to this the Local Authority can serve a notice on them, outlining the specific actions that they have to take.
- 2.7.3 This section of the Act is scheduled to be commenced in the summer of 2005. Currently though a working group is being established by the Executive with representatives from Local Authorities to plan the implementation of this part of the Act.

## **2.8 Housing – Registration of Landlords**

- 2.8.1 This section of the Act outlines the new registration scheme of private landlords which Local Authorities will have to establish. Each Local Authority will have to prepare and maintain a public register of all private landlords in their area. If a landlord does not register they can be subject to a fine.
- 2.8.2 This section of the Act will not be commenced until the autumn of 2005. Similarly to the housing antisocial behaviour notices, a working group is to be established to plan how this will be implemented.

## **2.9 Parenting Orders**

- 2.9.1 Parenting Orders are measures which have been introduced to deal with parents who deliberately or recklessly fail their children. This can be on welfare grounds or by failing to take steps to prevent their child from committing a crime or antisocial behaviour. Parenting orders can be taken out by the Local Authority or Children's Reporter and are initially a civil order, however if breached will become a criminal offence.
- 2.9.2 Commencement of this section of the Act will be through a phased introduction. However, no confirmed date of when this will begin has been advised by the Executive.

## **2.10 Further Criminal Measures**

- 2.10.1 Further Criminal Measures cover the following new measures given to Police Forces and Courts:

- Community Reparation Orders – people aged 12 or over convicted of an antisocial behaviour offence can be required to work 10-100 hours giving something back to the community they have damaged.
- Antisocial Behaviour Orders – a court will have the power to apply an ASBO to a person immediately after the person has been found guilty of a criminal offence involving antisocial behaviour.
- Restriction of Liberty Orders – this extends the current power to those under 16. This power can restrict someone to and from a specified place for a period of time.
- Ban on sale of spray paint to under 16's.
- Vehicles used in a manner to cause alarm, distress or annoyance – Police can stop and seize vehicles that have been driven off road, or are being driven without due care or attention.

2.10.2 With regards to Community Reparation Orders, pilots are to take place within Inverness, Dundee and Greenock from January 2005. Once regulations on these have been finalised, this section of the Act will commence throughout Scotland. Regulations are also to be established for the Seizure of Vehicles, therefore this section will commence once this is complete.

2.10.3 Antisocial Behaviour Orders and the Ban on the sale of spray paint to under 16's commenced on 28 October 2004. Restriction of Liberty Orders is to be commenced in late 2004.

## **2.11 Fixed Penalty Notices**

2.11.1 Fixed Penalty Notices can be issued by the Police for various reasons. For example:

- Refusing to leave a licensed premises;
- Being drunk in a public place, while in charge of a child;
- Vandalism.

2.11.2 The pilot exercise for this is due to begin within Tayside from January 2005. Therefore once regulations are established, this power will have effect in the whole of Scotland.

## **2.12 Children's Hearings**

2.12.1 Part 12 of the Act covers new powers in respect to children's hearings. The new power includes Restriction of Movement and Local Authority Accountability.

2.12.3 With regards to Local Authority Accountability, draft guidance has been published for consultation and commencement is scheduled for early 2005. Phase 1 introduction of Restriction of Movement is to begin in late 2004

## **2.13 Miscellaneous & General**

2.13.1 In the main this section covers the effective management and sharing of information between agencies on antisocial behaviour. It makes provision for the disclosure to and sharing of information with a relevant authority for which the disclosure of information is necessary or expedient for the purpose of any provision contained in the 2004 Act.

2.13.2 This section of the Act is due for commencement in the autumn of 2004.