



CABINET REPORT

Report Title	Premises Closure Orders
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AGENDA STATUS: **Public**

Cabinet Meeting Date:	16 December 2009
Key Decision:	No
Listed on Forward Plan:	Yes
Within Policy:	Yes
Policy Document:	Yes
Directorate:	Culture & Environment
Accountable Cabinet Member:	Councillor P Varnserry
Ward(s)	All Wards

1. Purpose

- 1.1 To provide information and adopt the protocol covering new powers for closure of premises associated with persistent disorder or nuisance. The powers came into effect from 1st December 2008 under Part 1A to the Anti-Social Behaviour Act 2003, as introduced by section 118 and Schedule 20 of the Criminal Justice and Immigration Act 2008.

2. Recommendations

- 2.1 That Cabinet endorses the protocol (appendix 1) in relation to the Premises Closure Legislation for Northampton Borough Council.
- 2.2 That the powers under Part 1A to the Anti-Social Behaviour Act 2003, as introduced by section 118 and Schedule 20 of the Criminal Justice and Immigration Act 2008, be delegated to the Chief Executive, Directors or Borough Solicitor for authorising the issue of a closure notice, consulting with the police and applying for a closure order. It is required that on all occasions the Chief Executive or Borough Solicitor also counter sign the authorisation.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Criminal Justice and Immigration Act 2008 received Royal Assent on 8th May 2008 and came into force on 1st December 2008. Part 8 of the Criminal Justice and Immigration Act inserts a new Part 1A to the Anti-Social Behaviour Act 2003 (the “2003 Act”).
- 3.1.2 The 2003 Act Part 1 gives powers to the police, following consultation with the local authority, to close premises that are being used in connection with the unlawful use, production or supply of Class A drugs, where that use has caused disorder or serious nuisance to members of the public. These powers are commonly referred to as the “crack house closure” provisions.
- 3.1.3 Part 1A of the 2003 Act creates new powers of closure for premises where a person has engaged in anti-social behaviour on the premises and where the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public. In other words, this enables the closure of premises that are not “crack houses” but where the level of nuisance or disorder is causing just as much of a significant effect on members of the public.
- 3.1.4 Significantly, under these new provisions, both the local authority and the police have the power to authorise such closure notices provided that they have consulted each other before a decision is made.
- 3.1.5 This power allows police or local authorities to close a premises irrespective of tenure for a period of 3 to 6 months. Meetings have taken place and the Local Authority and Northamptonshire Police have agreed to work jointly in relation to this legislation.
- 3.1.6 A Closure Notice should not be used as a threat. Once a notice is issued, an Order must be sought **within 48 hours** whether behaviour improves or not. This should not come as a surprise to anyone with an interest in the property, as persons in these premises should have been previously warned of impending action in an attempt to reform their behaviour.
- 3.1.7 The effect of a Closure Order is that the premises will be closed for a set period of time up to an initial maximum of 3 months. Thereafter there is the power to extend the Order by a further 3 months if necessary. Once the premises are closed the effect will be that no one will be entitled to enter the premises without prior permission of the Police or the Local Authority or until the Order expires. On the making of a Closure Order the Premises will be made secure and normally boarded up. It is a criminal offence to breach a Closure Order.
- 3.1.8 In some communities there are particular premises that are a constant focus for severe anti-social behaviour, making the lives of those living nearby a misery. These powers can be used to offer communities respite by temporarily closing premises for three months that are responsible for:
- significant and persistent disorder or
 - persistent serious nuisance to a community

- 3.1.9 As these powers can be exercised in relation to residential as well as commercial premises, they should only be used as a last resort where other interventions to tackle the serious and persistent nuisance have failed. The powers will often only be used as a last resort but can be used in relation to any type of premises where there is persistent and serious nuisance or disorder. Care should be taken to ensure they are not used as a tool of eviction.
- 3.1.10 The new Premise Closure Legislation will be an additional tool that can be used to give stakeholders of Northampton respite from those premises that are responsible for persistent ASB. It will be used in conjunction with other actions that may include support or if necessary additional enforcement action.

3.2 Issues

- 3.2.1 When a Closure Notice is issued, a Closure Order must be sought from the court within 48 hours. If named Officers are not given delegated authority to authorise the issue of Closure Notices and the seeking of Closure Orders then this will need to be authorised by Cabinet. That is a situation, which would cause unacceptable delays in the process and would not help to provide the community with the protection they need from the disorder or nuisance.

3.3 Choices (Options)

- 3.3.1 Remain as we are and do not support the implementation of the additional powers and protocol of closure for premises where a person has engaged in anti-social behaviour on the premises and where the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public. This however will not provide the Police and designated officers with the full compliment of powers to tackle those extreme cases of anti-social behaviour that a Premises Closure order would address.
- 3.3.2 It is proposed that it is in the best interests of the residents of the town that the protocol (appendix 1) in relation to the Premises Closure Legislation for Northampton Borough Council is adopted.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 Under Section 17 of the Crime and Disorder Act 1998, Northampton Borough Council has a statutory duty to 'exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent crime and disorder'.
- 4.1.2 The Crime and Disorder Act 1998 places a statutory duty on all local authorities to work in partnership with statutory, non-statutory, community and voluntary agencies to develop and implement strategies for tackling crime and disorder.

- 4.1.3 This report supports the contents of the Northampton Borough Council Anti-Social Behaviour Policy 2008-2011.

4.2 Resources and Risk

- 4.2.1 There may be some financial implications for sealing a property and dealing with utility supplies, if these costs cannot be applied to the owner or landlord. It is possible to apply to the Court for costs to be covered at the time the Closure Order is applied for, but the subject may have insufficient means so that to make the closure effective the Council covers these costs, funded from existing resources.
- 4.2.2 If vulnerable people are made homeless or put in need as a result of the closure there may be costs to the Council in meeting these needs. The extent of these costs would be assessed when the application is being considered and would affect the decision whether to proceed.

4.3 Legal

- 4.3.1 The power for the police and local authorities to issue Closure Notices and for the courts to confirm those Notices by making Closure Orders is created by section 118 of the Criminal Justice and Immigration Act 2008, which amends section 11 of the Anti-Social Behaviour Act 2003. The section came into force on 1st December 2008. This amendment gives the police and local authorities clear statutory authority to close premises where the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.
- 4.3.2 The legal implications are contained within the body of the report. In addition Part 1A, Section 11 of the 2003 Act, provides that neither the local authority nor any employee of the local authority will be liable for relevant damages in respect of anything done or omitted to be done by or on behalf of the authority in the performance or purported performance of functions under Part 1A, provided such act or omission is not shown to have been in bad faith and/or unlawful by virtue of section 6(1) of the Human Rights Act 1998.
- 4.3.3 Although this new power provides a substantial tool with which to combat anti-social behaviour, it should be remembered that considerable consultation will have to take place before it can be invoked so it may not be as speedy a remedy as some may have liked.

4.4 Equality

- 4.4.1 An Equality Impact assessment has been carried on the NBC Anti-Social Behaviour Policy 2008-2011, to which this report is linked, and there are no known equality and diversity implications.

4.5 Consultees (Internal and External)

Portfolio Holder	Northampton Borough Council
Director	Environment & Culture, NBC
Director	Housing
Head of Public Protection	Northampton Borough Council
Head of Housing Management	Northampton Borough Council
Partnership Director	Safer Stronger Northampton Partnership
Crime & Disorder Team Leader	Northampton Borough Council
Manager, Finance Department	Northampton Borough Council
Solicitor, Legal Services	Northampton Borough Council
Area Commander for Northampton	Northamptonshire Police
Safer Stronger Northampton Partnership Board Members	

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The proposals in this report support the NBC Corporate Priorities to '*achieve safer, cleaner, greener, communities*' and to '*strengthen our commitment to partnership working and community engagement for better outcomes*'. They also are in line with our Service Objectives to help our communities to become safer by '*reducing the fear of crime and reducing anti-social behaviour*' and supports LAA outcome SSC2B to '*build respect, reduce the fear of crime and the impact of anti-social behaviour*'
- The proposals also fully support the aims and objectives contained within the Northampton Borough Council Anti-Social Behaviour Policy 2008-2011.

4.7 Other Implications

None

5. Background Papers

- 5.1.1 Crime & Disorder Act 1998
Anti-Social behaviour Act 2003
Criminal Justice and Immigration Act 2008

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