1. **Summary**

1.1 This report provides background on the new tools and powers introduced under the *Anti-Social Behaviour, Crime and Policing Act 2014* and the use of those powers to date.

2. **Recommendation**

2.1 That the Committee notes the contents of the report.

3. **Introduction**

1.1 The *Anti-Social Behaviour, Crime and Policing Act 2014* reformed existing legislation to tackle anti-social behaviour; putting victims at the heart of agencies’ responses to anti-social behaviour and simplifying the process taken by professionals whilst giving flexibility to deal with any given situation. The majority of these powers came into effect on 20 October 2014, apart from the Civil Injunction power which was introduced several months later due to legal amendments being required before it could be introduced.

1.2 What is seen as anti-social behaviour will vary from person to person. It is a broad term used to describe criminal damage, nuisance and disorder that can seriously impact people’s lives, causing them alarm and distress. Issues range from litter and vandalism to public drunkenness, aggressive dogs or noisy or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, local authorities and social landlords.

1.3 The focus of the Act is not on the behaviour in question but rather the impact it has on the victim. In many cases what could be perceived as being ‘low level’ behaviour can have devastating effects on a victim’s life when this behaviour is persistent and targeted against the most vulnerable.

1.4 The Act also included two new measures which are designed to give victims and communities a say in the way anti-social behaviour is dealt with:

3.4.1 The *Community Trigger* gives victims the ability to demand a review of their case where the locally defined threshold is met. It is tantamount to a ‘complaints’ process for the handling of anti-social behaviour cases, however, does not replace the complaints process for individual organisations. In Dartford the *Community Trigger* can be used if at least three incidents of anti-social behaviour have been reported to a relevant organisation within the previous six months and action to address the issue not taken. These are incidents where the same behaviour, nuisance or problem has reoccurred and was reported within one month of it happening. To date there
have been no Community Trigger activations in Dartford.

3.4.2 The co-location of the local policing team and DBC's Community Safety team, with DBC Housing also occupying the Civic Centre, mean that information exchange occurs more effectively than may be the case in other local authorities across the country and allows the staff who can provide the principal response to anti-social behaviour in Dartford to speak in person.

3.4.3 As part of the ongoing management of ASB cases, the Community Safety team remain flexible to the circumstances and scrutinise their own actions, giving consideration to potential outcomes. Professionals' meetings may be called when other agencies, such as Registered Social Landlords, are involved in cases; and if necessary other agencies are held to account and complaints made and duly escalated within organisations until a suitable response is received.

3.4.4 This awareness of the wider sphere of working means that the case-review and recommendation process intended by the Community Trigger process is already effectively taking place, albeit in a less formal manner and therefore generally results in action being taken before a Community Trigger application becomes applicable.

3.5 The Community Remedy is a plan produced by the Police and Crime Commissioner (PCC) and sets out how victims get a say in the out-of-court punishment for perpetrators of low-level crime and anti-social behaviour. The PCC carried out a consultation before completing the Community Remedy document, the outcomes of which will be delivered in Kent through the process known as Community Resolution. The Community Resolution process can be used in low-level cases when both victim and offender agree, and can see one of the following actions used as appropriate:

- Financial Compensation (payment of cost of damage or replacement of property)
- Reparation (repair of damage to victim’s property or work in the community)
- Parenting contract (voluntary agreement signed by the offender’s parent/carer/guardian outlining expected behaviour)
- Acceptable behaviour contract (written agreement specifying behaviour)
- Written apology to the victim
- Verbal apology to the victim
- Restorative intervention (facilitated process between victim and offender to discuss the harm caused)

2 New Powers to Tackle Anti-Social Behaviour

2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 replaced the nineteen pre-existing measures with six new powers for tackling anti-social behaviour and introduced new absolute grounds for possession of secure and assured tenancies associated with anti-social behaviour or criminality. Each of the new measures is considered in turn below.

2.2 Civil Injunctions
2.2.1 The injunction is a civil power which can be applied for to deal with anti-social individuals. The injunction is designed to be a fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person’s behaviour from escalating.

2.2.2 The Council's Housing team have obtained four Civil Injunctions; with one injunction including a positive requirement to engage with the substance misuse treatment provider.

4.2.3 The Community Safety Unit are considering use of an injunction to deal with anti-social behaviour caused by vehicles congregating and racing in certain parts of the borough.

2.3 Criminal Behaviour Order (CBO)

2.3.1 The CBO is an additional sanction a court can impose during sentencing following a conviction for any criminal offence. The Council can ask the Crown Prosecution Service to apply to the Court for a CBO on behalf of the authority and it can be used as a sanction upon breach of either a Community Protection Notice (CPN) or a Public Spaces Protection Order (PSPO). A CBO can include both the more traditional prohibitions, but also positive requirements and it is a criminal offence to fail to comply with an order without reasonable excuse. Breaches of CBO by those aged under 18 will be dealt with in the youth court. In all other cases the offence will be considered by the Magistrates’ Court or Crown Court.

4.3.2 Kent Police have used the powers to impose CBOs on eight individuals in total. Five were convicted relating to repeated incidents of disorder around Temple Hill; two in relation to town centre disorder, and one further individual.

2.4 Dispersal Power

2.4.1 The dispersal power is a flexible power which the police can use in a range of situations to disperse anti-social individuals and provide immediate short-term respite to the local community. Previously, a Dispersal Order had to be agreed by both the Police and the Local Authority; however Local Authority approval is no longer required and dispersal powers can be put in place for up to 48hrs on authority of a Police Inspector.

2.4.2 The power is intended to be preventative as it allows an officer to deal instantly with someone’s behaviour before it escalates. In all instances, the impact on the local community should be considered before using the dispersal power.

2.4.3 Kent Police have utilised this power numerous times since its introduction. For example, a Dispersal Order has been put in place in Dartford Town Centre every weekend as a proactive preventative measure; providing officers with a legal basis to direct troublemakers to leave town. Several uses of this power have come as a direct result of intelligence sharing at the CSU tasking meetings.

2.5 Community Protection Notice (CPN)
2.5.1 The CPN is intended to deal with particular, on-going problems, or nuisances that negatively affect the community’s quality of life by targeting those responsible. CPNs can be used to tackle a wide range of problem behaviours. It can be issued against any person over the age of 16, or a group or organisation including a business. The Home Office noted that councils already took the lead in dealing with these kinds of issues and this power greatly increases the range of behaviours which local authorities can tackle.

2.5.2 There is a three step process in issuing a CPN. First a warning letter (CPW) must be issued directing a person to stop whatever they may be doing that is considered as the ‘detrimental behaviour’ and/or require them to carry out a certain action within a given time limit. For example, it may require a person to clear up an untidy garden within a given period of time.

2.5.3 If this warning letter is not followed the formal Notice can be issued. The Notice must contain similar conditions to the Warning but may contain amendments to the wording and will be worded formally and unambiguously to ensure there are no difficulties in the event that the matter progresses to prosecution. If the problem persists then the following punitive measures exist:

2.5.3.1 Service of a Fixed Penalty Notice of £100;

2.5.3.2 Prosecution in the Magistrates’ Court which could result in;

   A. On summary conviction a fine not exceeding £2,500 for a person or £20,000 for a business.
   B. The court may make whichever order the court thinks is appropriate for ensuring that the notice is complied with.
   C. An order can be made requiring specified work to be carried out, or to allow specified work to be carried out by (or on behalf of) the Council.
   D. The court may require the offender to surrender possession of any item used in their failure to comply with the Notice, to a constable or to a person representing The Council. The court may require this item to be destroyed or disposed of by the police force. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter premises to seize the item.

4.5.4 Point D above means that breaching a CPN which sets a condition around use of vehicles, could result in the vehicle being seized and later disposed of. This point is worth emphasising to those who may consider that the issuing of a CPN is merely another warning, which will not result in action being taken.

4.5.5 Between October 2014 and January 2017 Dartford Borough Council issued 54 Community Protection Warning letters. Of these, four have progressed to Community Protection Notices. None of the Notices have been breached.

4.5.6 The Community Protection process has been utilised by the Community Safety Team, Environmental Enforcement, Licensing Enforcement, Housing Estate
Management, Planning Enforcement, and Environmental Protection teams. This demonstrates that although the title of the Act and power itself suggest it is reserved for the more traditional types of anti-social behaviour, this is a powerful piece of legislation which can be adapted to numerous circumstances where someone is committing behaviour which could impact on the quality of life of others.

4.5.7 The teams within Enforcement and Regulatory Services have issued 21 Warning letters. Housing have issued 20, and Environmental Health have issued 13.

4.5.8 Dartford has adopted a system whereby the CSU progresses CPWs in appropriate cases which also impact on demand for local policing team resources. 14 of the 54 CPWs issued relate to matters which are a concern for both Kent Police and at least one DBC department and several others had potential to escalate to police involvement if action had not been taken.

4.5.9 As mentioned above, a Criminal Behaviour Order can be obtained if a person is convicted at court of failing to comply with the conditions of a Community Protection Notice. This expedites the process of getting a substantial order against those who cause nuisance to others, with the CBO carrying penalties of up to six months’ imprisonment, a substantial fine, or both.

2.6 Public Spaces Protection Order (PSPO)

2.6.1 The PSPO is intended to deal with a particular nuisance or problem in a designated area which is detrimental to the local community’s quality of life by imposing conditions on the use of the area. This could include placing restrictions on the use of parks, alleyways, or communal areas to prevent problems with misuse of alcohol, dogs or noise. Local authorities are responsible for making a PSPO but Police officers and Police Community Support Officers, as well as Council officers, have enforcement powers.

2.6.2 PSPOs are intended to replace the Designated Public Place Orders (DPPOs) which currently exist; also known as Alcohol Control Zones. The 2014 Act stated that DPPOs would cease to have effect in October 2017 – 3 years after the Act was introduced; therefore if appropriate, authorities can replace DPPOs by introducing a PSPO restricting alcohol use in the same area.

2.6.3 At the time of writing this report, a PSPO has been proposed for Dartford town centre (including Central Park) and Cabinet approval to undertake public consultation sought. This will replace the existing DPPO and will also add further conditions relating to a specific car park which accounts for a significant amount of disorder within the Night Time Economy.

2.6.4 These conditions relate to use of intoxicating substances; prohibition of anti-social use of motor vehicles; a requirement to surrender an open alcohol container; the prohibition of littering, swearing, urinating, defecating, or any other anti-social behaviour.

4.6.5 A PSPO has also been considered as a response to anti-social vehicle use.
2.7 Closure Power

2.7.1 The closure power can be used by local authorities and the police to close premises that are causing nuisance or disorder. The power comes in two stages. The closure notice can be used to provide short term relief up to a maximum of 48 hours. The closure notice can be issued in the first instance for 24 hours, or extended from 24 hours up to a maximum of 48 hours by the Council's Managing Director or other officer designated by him, or by a Police Superintendent.

2.7.2 The notice can then be extended upon application to the Magistrates’ Court for a closure order for a period of up to three months. At any time before the expiry of the closure order, an application may be made to the court for an extension (or further extension) of the order up to a total of six months.

2.7.3 Consideration was given to this power when a joint DBC and Kent Police operation closed down a rented premises causing significant community concern in 2016. Police obtained a warrant, visited the address and then alerted the owner who managed the property from a distance who was oblivious to the anti-social activity. This resulted in the owner reasserting control over the property and ensuring it was no longer used for nefarious purposes, thereby negating the need to obtain a closure notice.

2.8 Absolute Grounds for Possession

2.8.1 The purpose of the new absolute grounds for possession is to speed up the possession process in cases where anti-social behaviour or criminality has already been proven in another court. Landlords no longer have to prove that it is reasonable to grant possession but, instead, courts must grant possession if the landlord followed the correct procedure and at least one of the following specified conditions has been met.

- Convicted for a serious criminal offence,
- Found by a Court to have breached a Civil Injunction,
- Convicted for breach of a Criminal Behaviour Order,
- Convicted for breach of a Noise Abatement Notice, OR
- Tenant's property closed under a Closure Order.

2.8.2 The Council has had no cause to make use of this power.

3 Relationship to the Corporate Plan

3.1 Contributes to the Safer Community Objective Strategic Aim to create a safer Borough in which to work and live.

4 Financial, legal, staffing and other administrative implications and risk assessments
## Financial Implications
Producing the required signage for PSPO areas will have a small cost attached which can be met from existing budgets.

## Legal Implications
Obtaining Orders or injunctions will require liaison with legal service. Pursing enforcement action could lead to Court action being taken.

## Staffing Implications
None

## Administrative Implications
None

## Risk Assessment
None

### BACKGROUND PAPERS

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