



Brighton & Hove  
City Council

# Community Safety Forum

Title:	<b>Community Safety Forum</b>
Date:	<b>6 July 2009</b>
Time:	<b>4.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Simson (Chairman), Barnett, Carden (Opposition Spokesperson), Duncan, Hyde, Janio, Kennedy, Morgan, Watkins and Young <b>Representatives from Communities of Interest</b>
Contact:	<b>Penny Jennings</b> Senior Democratic Services Officer 01273 291064 Penny.jennings@brighton-hove.gov.uk



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## COMMUNITY SAFETY FORUM

The following are requested to attend the meeting:

### **Representatives from Communities of Interest:**

Age Concern  
Area Housing Panels  
Brighton & Hove Business Crime Reduction Partnership  
Brighton & Hove Community & Voluntary Sector Forum  
Brighton & Hove Federation of Disabled People  
Brighton & Hove City Primary Care Trust  
Independent Advisory Group Sussex Police  
Brighton & Hove Mediation Service  
British Transport Police  
Coalition for Youth  
Domestic Violence Forum  
East Sussex Fire & Rescue Service  
Hangleton & Knoll Project  
Hove YMCA  
Neighbourhood Watch  
Older People's Council  
Racial Harassment Forum  
Representatives from Individual Local Action Teams  
St James's Street Community Safety Group  
Spectrum  
Sussex Probation  
Victim Support  
Whitehawk Community Safety Development Project  
Women's Refuge Project  
Youth Offending Team.

## AGENDA

### 1. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.*

### 2. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the previous meeting held on 9 March 2009 (copy attached).

### 3. CHAIRMAN'S COMMUNICATIONS

### 4. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 29 June 2009)

No public questions received by date of publication.

### 5. COMMUNITY SAFETY ISSUES RAISED BY MEMBERS AND COMMUNITY REPRESENTATIVES

### 6. CRIME AND DISORDER COMMITTEE AND SCRUTINY PROCESS

9 - 68

Report of the Acting Director of Strategy and Governance (copy attached).

An oral update will be given by the Assistant Director of Public Safety at the meeting.

## COMMUNITY SAFETY FORUM

*Contact Officer*      *Oliver Dixon*      *Tel:29-1512*  
*Wards Affected:*      *All*

### 7. WELCOME TO LOCAL ACTION TEAMS AND PROGRESS

Report of the Assistant Director of Public Safety (presentation).

*Contact Officer:*      *Linda Beanlands*      *Tel:29-1115*  
*Wards Affected:*      *All*

### 8. CRIME TRENDS AND PERFORMANCE IN BRIGHTON AND HOVE 69 - 76

Report of the Assistant Director of Public Safety (copy attached).

*Contact Officer:*      *Ruth Condon*      *Tel:29-1103*  
*Wards Affected:*      *All*

### 9. BRIGHTON & HOVE DRUG & ALCOHOL ACTION TEAM- COMMUNITIES & FAMILIES PLAN 2009 - 11

Report of the Assistant Director of Public Safety (presentation).

*Contact Officer:*      *Linda Beanlands*      *Tel:29-1115*  
*Wards Affected:*      *All*

### 10. CLOSURE OF PREMISES PROTOCOLS ASSOCIATED WITH PERSISTENT DISORDER OR NUISANCE AND CLASS A DRUG PREMISES 77 - 136

Report of the Director of Environment (presentation)

*Contact Officer:*      *Jenny Knight*      *Tel: 29-2607*  
*Wards Affected:*      *All*

### 11. EAST SUSSEX POLICE AUTHORITY: MINUTES OF THE MEETING HELD ON 16 APRIL 2009 137 - 140

Minutes of the previous meeting of the Sussex Police Authority (copy attached).

### 12. EAST SUSSEX FIRE AUTHORITY: MINUTES OF THE MEETING HELD ON 9 FEBRUARY 2009 141 - 142

Minutes of the previous meeting of the East Sussex Fire Authority (copy attached).

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For further details and general enquiries about this meeting contact Penny Jennings, (01273 291064, email [penny.jennings@brighton-hove.gov.uk](mailto:penny.jennings@brighton-hove.gov.uk) [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Friday, 26 June 2009



# COMMUNITY SAFETY FORUM

## Agenda Item 2 Brighton & Hove City Council

### BRIGHTON & HOVE CITY COUNCIL

### COMMUNITY SAFETY FORUM

4.00pm 9 MARCH 2009

### COUNCIL CHAMBER, HOVE TOWN HALL

### MINUTES

**Present:** Councillor Simson (Chairman); Barnett, Carden (Opposition Spokesperson), Duncan, Kennedy, Morgan, Smart, Watkins and Young

**Sussex Police:** Chief Superintendent Bartlett; Sergeant Castleton

**Communities of Interest:** G Brooker, SCLAT; J Stevens, City Councillor Tenants Representative; T Harmer, SCLAT; F Matyzak MBE, Racial Harrasment Forum and Whitehawk Community Project; C Cooke, St James's Street LAT; Sylvia Harman, Bevendean LAT; Bill Gandey, Bevendean LAT; Georgie Sanders, Brighton and Hove Independent Mediation Service; C El-Shabba, Whitehawk Crime Prevention Forum; P Tilley, CUSF

**Officers:** Judith Macho (Assistant Director, Public Safety), Linda Beanlands (Head of Community Safety), Simon Court (Senior Solicitor) and Jane Clarke (Democratic Services Officer)

### PART ONE

#### 38. PROCEDURAL BUSINESS

##### 38a. Declaration of Substitutes

38.1 Councillor Barnett declared that she was substituting for Councillor Janio.

38.2 Councillor Watkins declared that he was substituting for Councillor Elgood.

##### 38b. Declarations of Interests

38.3 Councillor Duncan declared a personal interest in item 49 as he is a member of the Sussex Police Authority.

- 38.4 Councillor Carden declared a personal interest in item 50 as he is a member of the East Sussex Fire Authority.

### **38c. Exclusion of the Press and Public**

- 38.5 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Community Safety Forum considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

- 38.6 **RESOLVED** – that the press and public be not excluded from the meeting.

### **39. MINUTES OF THE PREVIOUS MEETING**

- 39.1 **RESOLVED** – that the minutes of the meeting held on 8 December 2008 are approved and signed by the Chairman with the following amendment:

Minute 30.1 - "*Councillor Kennedy* raised the issue of the new Lesbian Gay Bisexual and Transgender (LGBT) Community Officer post, and asked the Head of Community Safety for confirmation that the post had been appointed."

### **40. CHAIRMAN'S COMMUNICATIONS**

- 40.1 The Chairman notified the Forum that a meeting had been scheduled for 11 March 2008 to meet with the Chairmen of the Local Action Teams, which would be held in the Brighthelm Centre. The meeting was to ensure that consistency was being achieved across the teams in the city and to review terms of reference for LATs.

### **41. PUBLIC QUESTIONS**

- 41.1 There were none.

### **42. COMMUNITY SAFETY ISSUES RAISED BY MEMBERS AND COMMUNITY REPRESENTATIVES**

- 42.1 A Forum member referred to the bad weather that had been experienced recently in the city and asked how the police and the authority had coped with emergencies during this time.
- 42.2 The Assistant Director of Public Safety stated that the Civil Contingency Service had picked up the potential risks involved during this period and ensured that a proper response was achieved from all services. She had not received any reports back from services about particular problems that had been experienced and noted that the police and the Highways Team had liaised very closely to ensure the safety of everyone in the city.



42.3 Councillor Duncan noted that the emergency response during this period had been discussed at a recent East Sussex Fire Authority meeting and stated that it had been agreed that land rovers would be made available from the East Sussex Fire & Rescue Service for use by other authorities if the need arose.

**42a. Written question received from Councillor Ben Duncan**

42.4 “As a local Councillor I have had a number of queries raised with me regarding the taking of photographs by police officers in relation to members of the campaign group ‘Earth First’. I wondered if the police representatives could update the forum on procedure for monitoring such activities?”

42.5 Chief Superintendent Bartlett from Sussex Police stated that the Police had a duty to ensure that protests in the region were conducted lawfully. They also had a duty to protect the rights of citizens not involved in the protest to continue their daily activities without detrimental impact.

He stated that an operation had taken place in February 2009 in the London Road area to overtly gather intelligence on an event known as Winter Moot. The operation had been conducted by the Public Order Intelligence Unit, which had gathered intelligence from a website indicating that direct action was going to be taken about a particular issue. Chief Superintendent Bartlett noted that two large protests had taken place in Brighton and Hove last year that had caused significant problems and there was concern that attendees at the Winter Moot were intending to take part in unlawful direct action in a similar way.

Chief Superintendent Bartlett stated that the level of public concern this operation had created had not been anticipated, but that a conscious decision had been made to conduct the operation in an overt manner in order to lessen the intrusive impact. Any photos that were not connected with unlawful activity were disregarded.

He stated that greater consultation would take place for future operations of a similar nature, but that it was necessary to continue with such operations for the purpose of intelligence gathering. He confirmed to the Forum that the operation had been conducted in a correct and lawful manner.

42.6 Councillor Duncan referred to a recent article in a newspaper highlighting that photographs that were unconnected with crime were being stored. He asked for assurance from the Police that people from Brighton & Hove would not remain on databases simply because of lawful political activity. Chief Inspector Bartlett confirmed that anything unrelated to the Operation was destroyed by Sussex Police.

42.7 A Forum member stated that it was essential for Sussex Police to conduct such operations to prevent activist groups from escalating into something more violent.

42.8 Councillor Watkins stated that he was very concerned about the amount of information that was being stored and asked the Police Authority members who sat on the Forum to raise this issue and report back to the Forum.

**43. LETTER REGARDING THE USE OF 'MOSQUITO' DEVICES IN THE BRIGHTON & HOVE AREA**

- 43.1 Councillor Mitchell addressed the Forum and asked the Forum members and the Police for their views on the use of 'Mosquito' devices in Brighton and Hove.
- 43.2 The Chairman stated that there was cross-party support for control of these devices and felt there were better ways to deal with anti-social behaviour. She noted there had been a notice of motion from Cabinet to regulate these devices.
- 43.3 Sergeant Castleton addressed the Forum and stated that these devices were a negative response to anti-social behaviour and there was no evidence that they decreased this type of behaviour in the areas they were situated.
- 43.4 Councillor Duncan recognised that the Council had no powers to regulate these devices, but asked whether environmental health and safety legislation could be used to control them. The Assistant Director of Public Safety addressed the Forum and stated that this legislation did not cover the use of 'Mosquito' or similar devices, but that the work of the Crime and Disorder Reduction Partnership was beginning to make a significant difference and therefore there would be less need to use such devices.
- 43.5 A member of the Forum asked whether planning regulations could be used to prevent the devices being installed. The Assistant Director of Public Safety felt that they would not need permission to install these and therefore were not covered by planning laws.

**44. SCRUTINY OF COMMUNITY SAFETY AND OLDER PEOPLE**

- 44.1 The Head of Community Safety presented a report on the Scrutiny of Community Safety and Older People and stated that this was the first issue that had been referred from the Community Safety Forum onto an Overview & Scrutiny Committee agenda.

She stated that meetings to discuss the issues were taking place on 24 April at the Valley Social Centre, 22 May at Hove Town Hall and 3 July at Brighton Town Hall. As many agencies and community organisations as possible were being invited to submit information.

- 44.2 A member of the Forum asked whether the focus on tackling crime should be shifted to a focus on the prevention of crime, which was more in line with Sussex Police policies. The member felt a proactive approach was needed to ensure community safety. The Head of Community Safety stated that all issues around this subject would be discussed and a report would be produced with recommendations for action that could be taken forward by the Crime & Disorder Reduction Partnership (CDRP).
- 44.3 Councillor Barnett asked that a further meeting be arranged in either Portslade or Hangleton to allow people from those areas to attend more easily. The Head of Community Safety agreed and stated that meetings would be arranged in both of these areas.
- 44.4 A member of the Forum welcomed the work being done, but highlighted that safety for disabled people needed to be addressed as well. The Head of Community Safety stated

that this piece of work had a specific focus on older people, but noted that work had begun on addressing the issue of community safety for those with disabilities and those who experienced hate crimes, which was recognised as a highly important piece of work and would be taken forward later on in the year.

- 44.5 A member of the Forum welcomed this information and asked that GEMS was included as well when taking forward the work on community safety for those with disabilities and those who experienced hate crimes. The member asked whether baseline levels of crime would be established before work began on this report. The Head of Community Safety confirmed that baselines would be established and where possible targets would be set and recommendations produced.
- 44.6 Councillor Watkins stated that the scrutiny panel set up to examine Community Safety of Older people was time and financially limited and noted that this was a large subject to scrutinise. He asked for assurances from the Chairman that full support would be given to the recommendations and outcomes. The Chairman agreed and stated that she fully supported the scrutiny of this issue.
- 44.7 A member of the Forum raised the issue of material being accessible for older people and the Head of Community Safety stated that all literature about the subject would take into consideration its target audience and be accessible for all.

#### **45. CRIME TRENDS AND PERFORMANCE IN BRIGHTON AND HOVE**

- 45.1 Sergeant Castleton presented the Crime Trends and Performance in Brighton & Hove report and stated that 15 other authorities were used as a benchmark to compare figures for performance in Brighton & Hove and this was done on population size.
- 45.2 Councillor Duncan welcomed the overall reduction in crime figures but asked why acquisitive crime seemed to rise continually at each quarter, and asked if this was an effect of the economic crisis. Chief Superintendent Bartlett stated that Sussex Police shared the concern of Members that the economic crisis could be fuelling certain types of crime, but noted that this increase was against a backdrop of significant decreases over a number of years in levels of acquisitive crime. He stated that Sussex Police was keen to work with businesses in the city to ensure as much economic stability as possible, but was aware of the risks associated with the crisis.
- 45.3 Councillor Kennedy asked about domestic violence figures and noted that a problem had been reported regarding the reliability of domestic violence incident data. She asked for a further explanation of this. Sergeant Castleton replied that there had been an issue with the robustness of the data being produced and the way in which it was recorded, but he was now confident this had been resolved.
- 45.4 Councillor Kennedy agreed this was a complex area and noted that there could be difficulties in recording data accurately. She referred to a report in the papers that stated that women were being warned by the Police if they became involved with someone who had committed a domestic violence offence, and asked if this practise was being introduced by Sussex Police. Chief Superintendent Bartlett stated that this issue was about disclosure to vulnerable persons, and noted that child sex offender protocols

similar to this were being established. He felt that if these protocols went ahead, similar ones were likely for domestic violence offenders.

- 45.5 A member of the Forum stated that violent crime in the St James's Street area was increasing year on year and asked if any targets would be set as part of the next Policing Plan. Chief Superintendent Bartlett agreed that there was much that could be done to reduce crime and the CDRP would be setting appropriate targets.
- 45.6 A member of the Forum was concerned that Brighton & Hove was being measured against many London Boroughs, who possibly received more money to tackle crime. The Chairman stated that this was why it was important to consider the Crime Trends and Performance report against previous performance reports for the area first.
- 45.7 The Chairman asked why non-domestic burglary figures were not included in the report and Chief Superintendent Bartlett stated that this report was a snapshot of crimes across the city. He agreed that there were many more crimes that could be included, but did not want to overburden the Forum with information. Sergeant Castleton stated that an audit of all crimes was conducted yearly and this information could be included in an annual report to the Forum.

#### **46. ANTI-SOCIAL BEHAVIOUR UPDATE**

- 46.1 The Anti-Social Behaviour Co-ordinator and Sergeant Castleton presented a report on Anti-Social Behaviour Update to the Forum and stated that the team used a balance of enforcement and support to deal with the problems of anti-social behaviour. Sergeant Castleton stated that the Anti-Social Behaviour Team had achieved a nineteen per cent reduction in this area but perceptions of levels of crime for anti-social behaviour were still high.
- 46.2 Councillor Morgan stated that a lot of the issues dealt with in the report were familiar to East Brighton and the New Deal Partnership had pioneered much of the work now conducted by the Anti-Social Behaviour Team. He was pleased to see this work was being rolled out across the city.
- 46.3 A member of the Forum asked if there were 'hot-spots' in the city where a high level of Anti-Social Behaviour Orders were issued and Sergeant Castleton replied that levels of orders issued depended on where Police operations were being conducted.
- 46.4 A member of the Forum noted that several activities were organised for young people, but not for the ages of between 8 and 11 years and asked why this was. Sergeant Castleton agreed and stated he would like to see more activities for all young people. The Head of Community Safety stated that this was a target age group and new developments would be extending activities to them. The Chairman noted difficulties in that Youth Workers were not currently permitted to work with those under 11 years of age.
- 46.5 Councillor Carden asked for further clarification on which officers could be contacted regarding anti-social behaviour issues and noted there were long term problems with certain people in his area that did not seem to be resolved. The Head of Community Safety agreed to circulate contact information for officers.

Sergeant Castleton stated that the Local Connect policy meant that work would only begin on dealing with residents causing anti-social behaviour if they had resided in the area for more than six months. He noted that it could take some time to get plans into motion and that as soon as positive results were achieved the Team would stop working with those residents. If they lapsed into anti-social behaviour again, the process would be restarted. He agreed that more work needed to be done with local communities to help reduce this problem.

- 46.6 A member of the Forum raised the issue of 'studentification' in certain areas and asked whether this was linked to an increase in anti-social behaviour. It was noted that this had been recognised as a problem for a long time and Police Officers were employed at the universities to help deal with this. The Chairman agreed that this was an important issue and stated that more information would come to the Forum regarding this.
- 46.7 Councillor Young referred to the letters written by the Anti-Social Behaviour Team to the parents of young people engaged in anti-social behaviour, and asked how effective these are. Sergeant Castleton replied that in most cases they worked very well and the vast majority of parents would deal with the problem at home without the need for further involvement by the Anti-Social Behaviour Team.

#### **47. POLICING DIVISIONAL SERVICE PLAN**

- 47.1 This item was deferred at this meeting.

#### **48. PUBLIC REASSURANCE AND PROFILING THE WORK OF THE CRIME AND DISORDER REDUCTION PARTNERSHIP**

- 48.1 The Head of Community Safety stated that a dedicated public relations officer had been appointed to increase the profile of the CDRP and a new publicity campaign had begun. Posters that profiled the work of the CDRP were being placed in high-profile areas around the city.
- 48.2 The Chairman stated that she fully endorsed the campaign and Councillor Kennedy agreed it was an excellent initiative, but asked for more information on what was occurring in the City Parks Team, as they were greatly affected by crime and disorder. The Head of Community Safety agreed and stated she would feed this back to the campaign.
- 48.3 A member of the Forum asked if telephone numbers as well as email addresses could be included on the posters, as not everyone had access to computers or the internet. The Head of Community Safety understood this was an issue but stated that the campaign did not have the resources to staff a dedicated telephone line for the calls that would be generated by this, which was why the decision was made not to include a telephone number.

#### **49. SUSSEX POLICE AUTHORITY: MINUTES OF THE MEETINGS HELD ON 23 OCTOBER AND 18 DECEMBER 2008**

- 49.1 **RESOLVED** – that the minutes are noted.

**50. EAST SUSSEX FIRE AUTHORITY: MINUTES OF THE MEETINGS HELD ON 11 DECEMBER 2008, 15 JANUARY 2009 AND 5 FEBRUARY 2009**

50.1 **RESOLVED** – that the minutes are noted.

The meeting concluded at 6.10pm

Signed

Chairman

Dated this

day of

# **ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE**

## **COMMUNITY SAFETY FORUM (For Information)**

**Agenda Item 8**

**Agenda Item 6**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Scrutiny of crime and disorder matters</b>		
<b>Date of Meeting:</b>	<b>22 June 2009</b>		
<b>Report of:</b>	<b>Acting Director, Strategy &amp; Governance</b>		
<b>Contact Officer:</b>	<b>Name: Oliver Dixon</b>	<b>Tel: 291512</b>	
	<b>E-mail: oliver.dixon@brighton-hove.gov.uk</b>		
<b>Wards Affected:</b>	<b>All</b>		

### **FOR GENERAL RELEASE**

#### **1. SUMMARY AND POLICY CONTEXT:**

Under new legislation that came into force in April 2009, all local authorities must establish a crime and disorder committee (CDC) to scrutinise the Crime and Disorder Reduction Partnership (CDRP) and to consider relevant Councillor Calls for Action.

On 28 April the Governance Committee proposed that the Environment and Community Safety Overview & Scrutiny Committee (ECSOSC) be designated the council's statutory CDC; Full Council endorsed the proposal on 30 April.

This report invites ECSOSC to consider how best to implement the arrangements approved by Council, in light of Home Office guidance.

#### **2. RECOMMENDATIONS:**

It is recommended that ECSOSC:

- (1) Notes the report on establishing a CDC, considered and approved by Council on 30 April 2009 (see Appendix 1); and

- (2) Agrees how the council's CDC should function, having regard to Home Office guidance (see extract at Appendix 2)

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 On 30 April, Council approved a protocol setting out the separate roles of (i) the Brighton & Hove Community Safety Forum and (ii) ECSOSC, with regard to scrutinising the CDRP. The protocol is a framework intended to guide Members as to which aspects of scrutiny each of those bodies should undertake and how their functions inter-relate.
- 3.2 Home Office guidance on the scrutiny of crime and disorder matters, published in May 2009, contains a chapter (section 3) offering advice on the actual running of a CDC and is reproduced at Appendix 2. Whilst the protocol agreed by Council is fully compatible with that part of the guidance, Members are invited to consider Home Office advice on particular issues, with a view to implementation locally. These issues are as follows:

- 3.2.1 The role of the CDC is to scrutinise the work of the CDRP and the partners who comprise it, insofar as their activities relate to the partnership itself. The committee's scrutiny activity should therefore be framed by the partnership's community safety priorities, set centrally through national Public Service Agreements and locally through the Local Area Agreement.
- 3.2.2 Scrutiny is more effective when it focuses on a policy issue rather than on a single organisation. The purpose of the new legislation is to enable scrutiny not of individual partners but of the partnership as a whole, thus supporting a focus based on policy and finding solutions.

A protocol agreed between the CDC and the CDRP might be helpful for defining how scrutiny would work in practice. This would cover the overall scrutiny of the partnership whereas the protocol referred to in 3.2.3 would be specific to the CDC and the police authority.

- 3.2.3 Clear and sustained engagement between the CDC and the police authority, as the body that holds the police to account, is vital to make sure their roles complement each other. The parties may wish to agree a protocol detailing how they intend to work together on scrutiny of police matters.
- 3.2.4 The CDC should include in its work programme a list of issues which it needs to cover during the year. This should be agreed in consultation with the relevant partners on the CDRP and reflect local community need.
- 3.2.5 The CDC may co-opt additional members to serve on the committee, bringing with them specialism and expertise. Co-optees –
- (i) must be an employee, officer or member of a responsible authority or co-operating person/body;
  - (ii) may not be a member of the executive of the local authority



- 3.2.6 Given the role of the police authority in holding the police to account, the CDC should consider involving them in the work of the committee by one of the following means:
- (i) co-opting a member of the police authority onto the CDC although, for the reason given at 3.2.5 (ii), this may not be a cabinet member of the city council
  - (ii) issuing a member of the police authority with a standing invitation to attend the committee as an expert adviser. He/she would not be a member of the committee but participate in committee discussion as an expert witness.
- 3.3 Other parts of the Home Office Guidance offer an introduction to community safety (priorities, stakeholders, performance frameworks); and what good scrutiny of crime and disorder would look like, which includes a description of the different techniques a scrutiny body can use to maximise its effectiveness. A full copy of the guidance can be found at <http://www.crimereduction.homeoffice.gov.uk/regions/regions021guidance.pdf>

#### **4. FINANCIAL & OTHER IMPLICATIONS:**

##### **4.1 Financial Implications:**

The work of the Environment and Community Safety Overview & Scrutiny Committee may increase slightly as a result of undertaking functions required of the Crime and Disorder Committee, which may require a small amount of additional support and administration from the Overview and Scrutiny team. However it is anticipated that this will be managed within the existing resources of the team.

*Finance Officer Consulted: Peter Francis*

*Date: 11 June 2009*

##### **4.2 Legal Implications:**

Legislation providing for crime and disorder committees comprises section 19-20 of the Police & Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009 (SI 2009/942), both in force 30 April 2009.

The decision as to how the CDC should be established locally was considered by the Governance Committee on 28 April 2009, and their recommendation was approved by Council two days later.

*Lawyer Consulted: Oliver Dixon*

*Date: 9 June 2009*

##### **4.3 Equalities Implications:**

The development of working mechanisms to implement CDC powers needs to ensure that equality issues are addressed.

4.4 Sustainability Implications:

There are no direct sustainability implications arising from this report.

4.5 Crime & Disorder Implications:

Effective scrutiny of CDRP should translate into improved performance in relation to crime and safety matters as measured by Public Service Agreements, the Local Area Agreement, Comprehensive Area Assessment and the Place Based Survey

4.6 Risk and Opportunity Management Implications:

There is a risk of duplication of effort, or of a lack of accountability if the roles of the CDC and the CSF are not clearly understood and articulated. The development of the protocol within these papers should help overcome this risk .

4.7 Corporate / Citywide Implications:

Home Office guidance emphasises the fact that scrutiny is focused on improvements, on enhancing the performance of existing services, and on a constructive examination of the priorities of the partnership. Scrutiny undertaken in this way should help to cement the council's relations with its strategic partners

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Report to Council, 30 April 2009, on the establishment of a crime and disorder committee
2. Section 3 of 'Guidance for the scrutiny of crime and disorder matters' published by the Home Office, May 2009

# ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE

## Appendix 1

Brighton & Hove City Council

<b>Subject:</b>	<b>Statutory Crime &amp; Disorder Committee</b>		
<b>Date of Meeting:</b>	Council 30 April 2009 Governance Committee 28 April 2009		
<b>Report of:</b>	<b>Acting Director of Strategy &amp; Governance</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Oliver Dixon</b>	<b>Tel:</b> 291512
	<b>E-mail:</b>	<b>oliver.dixon@brighton-hove.gov.uk</b>	
<b>Wards Affected:</b>	All		

## FOR GENERAL RELEASE

### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 Following consultation over the 2008 Policing Green Paper (*'From the Neighbourhood to the National: Policing our Communities Together'*), the Home Office announced last November its intention to further strengthen the delivery of crime reduction through partnership working and to ensure a clear route of joint accountability for Crime & Disorder Reduction Partnership activity.
- 1.2 The Government aims to achieve this by commencing legislation on 30 April 2009, providing for Crime and Disorder Committees and Councillor Call for Action.
- 1.3 The issue for the Council is how best to accommodate the new legislation alongside the good practice that already exists in Brighton & Hove for holding to account those bodies tasked with reducing crime and disorder.
- 1.4 This report:
  - details the key elements of the new legislation
  - sets out the Council's implementation options and recommends one of these
  - recommends a protocol to ensure effective co-operation and co-ordination between the Community Safety Forum and the new Crime and Disorder Committee

### 2. RECOMMENDATIONS:

It is recommended that the Committee –

- 2.1 Recommends to Full Council that the Environment & Community Safety Overview and Scrutiny Committee ('ECSOSC') be designated the Council's statutory Crime and Disorder Committee.
- 2.2 Agrees to recommend to Full Council the protocol at Appendix A, governing the interface between the Community Safety Forum ('the Forum') and ECSOSC.
- 2.3 Agrees to recommend that the Chair of ECSOSC (being the Chair also of the Crime and Disorder Committee) become a member of the Forum.
- 2.4 Authorises the Head of Law to put these arrangements into effect, following Full Council approval, including any necessary amendments to the Council's constitution
- 2.5 Instructs the Head of Law to monitor the effectiveness of the arrangements implemented under 2.1 and 2.2 above and, if appropriate, to submit a report to the Governance Committee, as part of the Council's 12-month review of the Constitution, on any changes considered necessary.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Government intends to bring sections 19-21 of the Police and Justice Act 2006 ('the Act') into force on 30 April 2009.
- 3.2 Section 19 will require the Council:
  - (i) to establish a crime and disorder committee ('CDC') with power –
    - (a) to review or scrutinise decisions and actions taken by responsible authorities (the chief officer of police, the police authority, primary care trust, fire and rescue authority, and local authority, for the area concerned) in connection with their crime and disorder functions; and
    - (b) to make reports or recommendations to the Executive with respect to the discharge of those functions;
  - (ii) to make arrangements which enable any member who is not a member of the CDC to refer any local crime and disorder matter to the committee, under the process known as Councillor Call for Action. This will allow ward issues that Councillors have sought to resolve through other means to be raised at the CDC as an option of last resort. The CDC then has power to make a report or recommendation to the Executive in relation to the matter
- 3.3 Draft regulations issued in connection with section 19 give CDCs the power to obtain relevant information from the responsible authorities or cooperating persons or bodies (the latter include local probation boards, NHS trusts and governing bodies of schools), and to require their attendance at a CDC meeting to answer questions.

- 3.4 Whenever a CDC makes a report or recommendation to the Executive, it must provide a copy to the appropriate responsible authorities and co-operating persons and bodies, who in turn must –
- (i) consider the report or recommendations;
  - (ii) respond to the CDC, indicating what action (if any) it proposes to take;
  - (iii) have regard to the report or recommendations in exercising its functions.
- 3.5 The Act requires the CDC to be an overview and scrutiny committee. The Council's constitution satisfies this requirement, as the statutory functions of the CDC fall within the remit of the Environment and Community Safety Overview and Scrutiny Committee (ECSOSC). However, these functions need to be considered in the context of the role performed in Brighton & Hove by the Community Safety Forum ('the Forum').
- 3.6 The Forum has a broad remit relating to all aspects of crime, disorder and community safety. It enjoys the support of and active engagement from the responsible authorities, and indeed the types of issue that may come before the CDC are currently dealt with by the Forum. However, the Forum is not an overview and scrutiny body and cannot, as currently constituted, assume the mantle of CDC with all its attendant powers.
- 3.7 To achieve the dual aims of maintaining the effectiveness of the Forum and complying with the new legislation, the options open to the Council are as follows:

Option 1 Confirm ECSOSC as the statutory CDC with a remit to deal with those crime and disorder matters which must by law or by the Council's constitution be referred to it; and refer all other crime and disorder matters to the Forum.

For the reasons given at 3.8 - 3.11, this is the **recommended option**.

Option 2 Introduce a new overview and scrutiny committee to perform the functions of the CDC, leaving an Environment Overview & Scrutiny Committee to concern itself purely with environmental matters; and refer all other crime and disorder matters to the Forum.

Whilst this would achieve the same result as option 1, a stand alone CDC would increase the number of overview & scrutiny committees to seven, resulting in an overloaded schedule of meetings for Members and difficulties in allocating sufficient Members to the CDC.

Option 3 Refer all crime and disorder matters to a single body, the Forum, but with an inner body of elected overview and scrutiny Members who discharge CDC functions when required. Although this would conform with legislation, it is likely to alienate the majority of Forum members, as the only people who may be co-opted onto the CDC are

employees or officers of the responsible authorities or co-operating bodies or persons; nor could the Chair of the Forum, by virtue of being a member of the Council's Executive, serve on the CDC.

- Option 4 Cease the Forum and transfer all its business to a stand alone CDC which would become the Council's seventh overview & scrutiny committee, leaving an Environment O & S Committee to deal with environmental matters only. This has the disadvantages associated with options 2 and 3 above. Further, it would deprive the majority of existing Forum members of their regular opportunity to participate in debates and discussions about crime and disorder matters at a forum involving all CDRP members. This would be a regressive step at the very time when the Council is about to face new duties to promote local democracy.
- 3.8 The recommended option envisages the Forum retaining its current role. To avoid the risk of the Forum and CDC addressing the same issues, which could result in confusion and duplication of effort and agendas, it is recommended that a protocol based on Appendix 1 be developed that establishes the Forum as the primary channel for crime and disorder reduction, and the promotion of community safety. The role of ECSOSC would be to fulfil statutory CDC functions and maintain a strategic overview of crime and community safety issues. This has a number of advantages:
- (i) all the responsible authorities already attend the Forum. Issues can therefore usually be resolved by those present at the meeting;
  - (ii) the Forum comprises a wider range of organisations than would be permitted on the CDC; this would allow more meaningful debate of the issues, with all interested parties being able to contribute.
  - (iii) ensuring that all community safety and crime and disorder issues are raised at first instance in a single setting (the Forum) will enable the responsible authorities to build up a more complete picture of the type and location of problems of that nature.
- 3.9 Importantly, this arrangement is compliant with draft regulations on the operation of CDCs. The regulations cover the co-opting of additional members, the frequency of meetings, the provision of information by responsible authorities, attendance at CDCs by non-members, and the timescale for responding to reports and recommendations from the CDC.
- 3.10 Although CDC membership is restricted to non-executive council members and a limited number of co-optees, its meetings will be open to the public, enabling Forum members not on the CDC to attend and observe proceedings.
- 3.11 The Government regard Councillor Call for Action as an option of last resort. It is therefore advisable to use the Forum for on-going business but to treat the ECSOS Committee as the formal CDC for those rare occasions when a Member has been unable to resolve an issue through normal channels (including the Forum) and wishes to avail himself of the formal powers available to the CDC.

- 3.12 This saves ECSOSC from being swamped by crime and disorder issues to the detriment of its environment responsibilities; nor would ESCOSC simply be replicating the work of the Forum.
- 3.13 The strategic role of ECSOSC would, to the extent necessary to comply with CDC legislation, focus on:
- o Considering Councillor Calls for Action on crime and disorder matters
  - o Taking performance data regarding community safety issues from the LAA and National Indicator Set
  - o Establishing ad hoc panels to investigate C&D issues – with input from the Forum
  - o Taking updates from the Forum and requiring the Forum Chair to attend before it to answer questions
- 3.14 In order to ensure continuity between the two bodies and the free flow of information, it is suggested that the Chair of ECSOSC be a member of the Forum, with the Chair of the Forum invited to provide 6 monthly updates on its work to ECSOSC.
- 3.15 It is recommended that a review of the effectiveness of the new arrangements be included as part of the 12 month review of the constitution.

#### **4. CONSULTATION**

- 4.1 Consultation has taken place with the Leader of the Council, the Leader of the official opposition, the Cabinet Member for Community Affairs, Inclusion and Internal Relations, and the Chair of ECSOSC. Judith Macho, Assistant Director Public Safety, and Linda Beanlands, Head of Community Safety, have also been consulted.

A short presentation on the proposals was given to the Responsible Authorities Partnership / Drug and Alcohol Action Team meeting on 27 March 2009, and questions and comments invited.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The current proposal does not entail any change to the administration of the Community Safety Forum, and hence no additional or reduced operating costs. The work of the Environment and Community Safety O & S Committee may increase slightly as a result of undertaking functions required of the Crime and Disorder Committee, which may require a small amount of additional support and administration from the Overview and Scrutiny team. Any associated costs will be assessed once the CDC is up and running.

*Finance Officer Consulted: Anne Silley*

*Date: 30 March 2009*

##### Legal Implications:

- 5.2 These are covered in the body of the report. Definitive regulations on the exercise of section 19 are expected by 30 April 2009. If these are materially different from the version seen in draft (and used as the basis for this report), officers will notify members accordingly.

There are no specific issues relevant to the Human Rights Act arising from the report.

*Lawyer Consulted: Oliver Dixon*

*Date: 30 March 2009*

Equalities Implications:

- 5.3 Under the proposals, all community representatives who currently attend meetings of the Forum can continue to do so. Further, as indicated in 3.10 above, even if they are not members or co-optees of the CDC, they may attend CDC meetings to listen to and observe proceedings.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from the report.

Crime & Disorder Implications:

- 5.5 The purpose of CDCs is to increase the accountability of those bodies responsible for tackling crime and disorder in the local authority area. The statutory requirement on these bodies to respond to reports and recommendations of the CDC and to have regard to their content in exercising their functions should ensure that their actions are more closely aligned to the crime and disorder issues raised by members on behalf of their constituents.

Risk and Opportunity Management Implications:

- 5.6 The risk inherent in operating two bodies with potentially overlapping agendas is addressed in 3.8 above

Corporate / Citywide Implications:

- 5.7 Establishing a CDC engages two of the Council's corporate priorities: fair enforcement of the law; and open and effective city leadership.

## **SUPPORTING DOCUMENTATION**

### **Appendices**

1. Draft protocol

### **Documents In Members' Rooms**



1. None

**Background Documents**

1. None

### **Suggested protocol on relationship between the Community Safety Forum and the Environment and Community Safety Overview and Scrutiny Committee (Designated as the Crime and Disorder Committee)**

As provided for under the Council's constitution, the Environment and Community Safety Overview and Scrutiny Committee (ECSOSC) is designated the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006 ('the Act').

It is recognised that the Community Safety Forum ('the Forum') is in a position to resolve many of the crime and disorder issues that members will wish to raise.

Members wishing to raise a crime and disorder issue should direct the matter in the first instance to the Forum.

The ECSOSC will, when crime and disorder matters are referred to it without first being presented to the Forum, note them and refer them to the next appropriate meeting of the Forum.

In fulfilment of its role as CDC, the ECSOSC shall meet to review or scrutinise the decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every twelve month period. ECSOSC shall perform this role after considering:

- A six monthly update from the Chair of the Forum on its work
- LAA performance data on community safety issues

The ECSOSC shall also:

- Deal with any Councillor Call for Action that has already been to the Forum but remains unresolved
- Consider whether, following input from the Forum, to establish an ad hoc panel on a crime and disorder matter

Nothing in this protocol prevents a Member from raising issues directly at the ECSOSC in accordance with section 19 of the Act. It does, however, provide guidance to allow the most efficient and effective resolution of crime, disorder and community safety issues.

# NATIONAL SUPPORT FRAMEWORK

## DELIVERING SAFER AND CONFIDENT COMMUNITIES



Home Office

Guidance for the Scrutiny of Crime  
and Disorder Matters – England

Implementing Sections 19 and 20  
of the Police and Justice Act 2006



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## Introduction

Crime is consistently one of the top concerns for communities everywhere – and therefore working to keep the areas we live in safe and harmonious is an ongoing priority for politicians and public servants alike.

But, safety depends on far more than the action of the few professionals for whom it is their dedicated occupation. It needs a creative and cooperative approach that draws in other services – from licensing, to activities for teenagers, to planning – but also engages the community at large: businesses; faith groups; local charities; community groups; and individual members of the public.

Crime and Disorder Reduction Partnerships (CDRPs) have made significant progress over the past ten years, but further evolution is always required. Throughout this document you will see references to changes made as the result of recent reforms – reductions in bureaucracy, devolving responsibilities to the local level, streamlining of processes. The powers now given to enable councillors to scrutinise CDRPs are integral to this new landscape.

At heart, scrutiny is about accountability. Councillors have a unique place in local decision making, providing a clear line of democratic accountability between decision-making and the people they serve. The new provisions will enable them to bring their unique perspective to bear on how CDRPs are tackling crime and disorder and potentially benefit communities everywhere..

These powers are given to local authorities' scrutiny functions by sections 19 and 20 of the Police and Justice Act 2006 ('the Act') – as amended by section 126 of the Local Government and Public Involvement in Health Act 2007. There have also been regulations passed under section 20 of the Police and Justice Act. These provisions provide local authorities with a framework for the development of an ongoing relationship between CDRPs and scrutiny bodies.

This guidance has been written for a variety of people:

- For those working in community safety, it will introduce them to scrutiny in local government, to the principles that underpin it, and to the positive contribution it can make to their work: and
- For councillors, and officers working in local authorities, it will provide information on community safety issues (including the national policies and structures) and give them advice on how scrutiny can add value to the work they do with partnerships.

Key points which may be particularly useful to certain groups are contained in **coloured boxes** throughout the document: CDRPs may find the information in the **orange** boxes most useful; councillors and local authority officers, the **purple** boxes and the **green** boxes will be useful to all groups.

The guidance consists of the following sections:

- Section 1: an introduction to community safety, for members and officers who may be unfamiliar with some of the themes and the jargon.
- Section 2: an exploration, through some worked examples, of what good scrutiny of crime and disorder issues might look like.
- Section 3: a discussion of the practicalities, including the designation of crime and disorder committees and community safety partner responsibilities.

#### Notes on the wording and scope of the guidance

Where we have used the word “committee” in the guidance, in most instances we are referring to what the regulations call the “crime and disorder committee”. We have omitted the prefix to minimise unnecessary repetition of the phrase.

This guidance applies to England. Separate guidance covering Wales will be issued later in 2009 as the provisions will come into force in Wales on 1 October 2009.



# Section 1 - An introduction to community safety

## 1.1 Brief history

*You might find this most useful if you are a scrutiny member or officer.*

All councillors are now aware of the partnership landscape that connects so much of the work of local public services. But the history of partnerships has been a story of evolution more than design. Partnerships on safety are one of the oldest and most prescribed parts of the local strategic partnership family.

Crime and Disorder Reduction Partnerships (CDRPs) were created by the Crime and Disorder Act 1998 to develop and implement strategies to reduce crime and disorder (although they are not called CDRPs in the statute). They are known as Community Safety Partnerships (CSPs) in Wales. They exist to ensure that a number of prescribed 'responsible authorities' work together to jointly agree and delivery community safety priorities. The responsible authorities are:

- The local authority
- The police force
- The police authority
- The fire and rescue authority
- The primary care trust

The responsible authorities have a duty to work in co-operation with the 'co-operating bodies' who are probation, parish councils, NHS Trusts, NHS Foundation Trusts, proprietors of independent schools and governing bodies of an institution within the further education sector. It is likely that from April 2010, probation authorities will become responsible authorities and the duties of CDRPs will be expanded to include reducing re-offending.<sup>1</sup>

Other partners can also sit on the CDRP, meaning that membership can vary widely across the country. However, the above core membership is the same for every partnership.

Since 1998, CDRPs have become an integral part of the work of police forces and local authorities in particular, though a wide range of partners may also be involved, tackling a range of local issues to do with safety.

Unlike most elements of local strategic partnerships, CDRPs have been subject in the past to a very significant amount of direction, legislation, and targets from the centre. A review of the Crime and Disorder Act concluded in 2006 and subsequent amendments to legislation were made through the Police and Justice

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<sup>1</sup> Provisions included in the Policing and Crime Bill

Act 2006. This resulted in regulations<sup>2</sup> and guidance that further evolved the work of CDRPs.

#### **What does this mean for me?**

Councillors and scrutiny officers might reflect on the fact that these CDRPs have a relatively long history, which means relationships may be well established and partners cautious about how the dynamic may be affected by new scrutiny activity. They may also be used to working within a tightly defined framework, and may only recently have begun to adapt to an approach that is more flexible and allows more local discretion.

### **1.2 Community safety priorities**

All CDRPs in England are now part of a new performance framework. What this means is that CDRPs should not be subject to any central targets or funding streams apart from what is negotiated through the Local Area Agreement. There are four main elements to the performance framework:

- National Public Service Agreements (PSAs) as measured through the National Indicator Set (NIS)
- the Local Area Agreement (LAA)
- Comprehensive Area Assessment (CAA)
- The Place Based Survey

Government identifies its priorities for reducing crime through these PSAs, whereas LAAs reflect local priorities.

PSAs and LAAs change periodically; it is important to emphasise that these will reflect, at local level, changes in the community safety landscape in the area, and, at national level, changes in national priorities reflected in government policy.

In order to identify and deliver on the priorities that matter the most to local communities, CDRPs are required to carry out a number of main tasks. These include:

- preparing an annual strategic assessment. This is a document identifying the crime and community safety priorities in the area, through analysis of information provided by partner agencies and the community.
- producing a partnership plan, laying out the approach for addressing those priorities;
- undertaking community consultation and engagement on crime and disorder issues; and
- Sharing information among the responsible authorities within the CDRP.

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<sup>2</sup> The Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007 and The Crime and Disorder (Prescribed Information) Regulations 2007

These key tasks have been affected by the changes put in place relating to the CDRP performance regime. More information can be found at Section 1.5.

#### **What does this mean for me?**

Targets in the LAA will be considered by scrutiny in any case – councils were given powers to scrutinise LAAs as part of the Local Government and Public Involvement in Health Act 2007. It may not provide best use of scrutiny resources to focus too much time on performance information. But the strategic assessment provides a chance to get underneath high-level information and think about how well the partnership understands the area and its mapping need. Some areas have access to quite sophisticated crime and anti-social behaviour mapping technology, for example, that councillors may be unaware of and find insightful.

### **1.3 Who delivers on community safety?**

*The Independent Review of Policing* carried out by Sir Ronnie Flanagan, and published in early 2008, stated that, “policing is far too important to be left to the police alone” (p 5). This is even more relevant when it comes to community safety and was behind the introduction of the Crime and Disorder Act 1998. Community safety is not just about the police. Like every challenging outcome that local authorities and their partners deliver for their communities, community safety needs a wide range of people and organisations to be involved and contributing to address crime and its causes.

This theme was expanded upon by the Policing Green Paper, *From the Neighbourhood to the National: Policing our communities together*, published in July 2008, which emphasises the role both of CDRPs, other partnerships and of local communities in improving community safety.

The public policy imperative for close joint working, across a wide range of organisations and sectors, is consequently very clear.

#### **Looking more widely at partnership**

A good illustration of how effective community safety needs to be creative and draw in the widest group of agencies is provided in the practical guide called *Tackling Gangs*. While gangs and gang violence may seem like a serious problem for the police to deal with, the guidance shows how real impact can only be achieved with a much wider approach. The guidance recommends creating a multi-agency partnership to include:

- Police
- Local authority: community safety, anti-social behaviour team, children and young people’s services, housing
- Crown Prosecution Service
- Further education colleges
- Prison Service

- Probation Service
- Youth Offending Team

Though these would provide leadership, there might be other organisations to involve to really make a difference:

- the business community – they have an interest in reducing crime and can provide job training, voluntary opportunities and sponsorship for projects;
- the voluntary and community sector – they can create vital links to hard to reach parts of the community, providing both trusted services and valuable information;
- Department for Work and Pensions and Driver and Vehicle Licensing Agency – they can help crack down on gang members committing benefit fraud or licensing offences
- Revenue and Customs – they can help tackle illegal import of weapons and drugs
- Primary Care Trusts – gang members will often report to A&E when injured, but not report to the police
- TV licensing – can go into gang members homes and be part of a campaign to put pressure on gang members

#### 1.4 The responsible authorities

In Section 1.1 we mentioned the statutory responsible authorities sitting on the CDRP. While the role of scrutiny is to **scrutinise the partnership as a whole**, good scrutiny is based on relationships and mutual understanding. This section explains the individual roles within the partnership in more detail.

##### *Local authority*

Most local authorities have staff dedicated to community safety, though resources in smaller districts may be limited. But community safety needs the support of a wide range of people throughout the council to be effective. The council has a legal duty under section 17 of the Crime and Disorder Act 1998 to carry out all its various functions with due regard to the need to prevent crime and disorder in its area. This duty is likely to be extended to include reducing re-offending from April 2010<sup>3</sup>.

Public policy makers in local authorities and other sectors have grappled for some time with issues relating to the links between crime and services provided by the council and its partners. The relationships between specific services such as child welfare, education and training, health (including mental health), and crime and disorder priorities are complex.

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<sup>3</sup> Provisions included in the Policing and Crime Bill

A common priority is tackling anti-social behaviour. In order to successfully tackle anti-social behaviour you first need to understand it – therefore information exchange and analysis of the problem including those involved is the first stage. Co-ordinating services including youth support, drug and alcohol action, policing and park management will then be important given their links to those involved in anti-social behaviour. The solution to an anti-social behaviour problem does not lie with one service or partner agency alone.

The importance of giving people a good start in life is obvious – this is why local authority functions such as **Children’s Trusts** and **Youth Offending Teams** are important contributors to community safety. Youth Offending teams sit within the local authority but bring together multi-agency partnerships around education, health and social services. They are overseen nationally by the **Youth Justice Board**.

If people have jobs, relationships, houses and good mental health they are far less likely to commit crime or re-commit crime even if they have been convicted in the past. Other important partners are **Drug and Alcohol Action Teams** – another local authority team that leads a multi-agency partnership and links into the community safety partnership. **Housing services**, either in-house, arms length or from social housing providers, are an important partner, both in getting people settled but also in tackling problems such as estates whose design encourages crime. Apart from the specialist teams named above, **adult social services** have a role to play in working with people with chaotic lives and mental health needs in particular.

### *Police*

No one person is in overall control of policing in England and Wales. The current governance arrangement which involves chief officers of police, police authorities and the Home Secretary - what is known as the 'tripartite arrangement' - has evolved over time, based on the broad principles of political impartiality of the police, policing by consent of the public, the Government's overall responsibility for ensuring a safe society in which to live, and the need for the expenditure of public money to be properly accounted for.

There are 43 police forces in England and Wales, as against the 381 local authorities, which means that many police forces deal with several local authorities at once. For some areas this is more problematic than others. In London there is only one police force, the Metropolitan Police, for all 32 borough councils. However, London is divided into 34 **Basic Command Units** (BCUs) which are coterminous with each borough, with two separate BCUs for Heathrow and the Royal Parks.

Chief Constables have discretion to organise their force anyway they see fit, and may use a variety of different terms for the sub-units within the force, including BCU, Division, District or Borough. In Thames Valley Police there are only five BCUs, for example, but these are subdivided into “Local Policing Areas” that are coterminous with local authorities.

Below the BCU level there are **Safer Neighbourhood Teams**. These have been rolled out throughout England and Wales and are an important part of partnership working. The latest focus is on joining up Neighbourhood Policing with Neighbourhood Management.

### *Police authority*

The role of the police authority is to secure an efficient and effective police force for the area. This is done by setting the strategic direction for the police in the area for which the authority is responsible, and by holding the Chief Constable to account. All police officers and staff are accountable to the Chief Constable, and the Chief Constable to the police authority.

In order to do this, police authorities have an officer structure that supports a committee made up of local councillors and independent members, with councillors holding a majority of one. Councillors are drawn from top-tier authorities using a formula to give political balance. At least one of the independent members must be a magistrate. Most police authorities have between 17 and 25 members, though 17 is typical.

The police authority sets the strategic direction for the force by, amongst other things, deciding how much council tax should be used for policing (allocated by the use of precepts) and putting in place local police priorities. In doing so, police authorities also have a statutory duty to consult communities.

In holding the Chief Constable to account, police authorities carry out functions similar to those which the scrutiny committee might seek to exercise. It is important to emphasise that scrutiny bodies and police authorities should work closely together to ensure that their activities are complementary.

### *Fire and rescue*

Fire and rescue services have a relatively focused remit, but are often committed and enthusiastic members of community safety partnerships. Fire and rescue is structured into 50 services across England and Wales. Accountability is provided through the **fire authority**. The fire authority is a committee of councillors. How this committee is made up depends on the boundaries of the fire service. Where boundaries are co-terminous (which is the case for counties) the fire authority is a committee of the council. Where the fire service covers more than one authority, there is an external committee that is made up of councillors from each

of the local authorities in the area. The London Fire and Emergency Planning Authority is an exception. It oversees the London Fire Brigade, and is made up of eight members nominated from the London Assembly, seven from the London boroughs and two appointed by the Mayor.

The contributions of the fire and rescue service may make to community safety might include:

- fire safety education, focusing on children in schools and groups in the community who may be particularly vulnerable;
- road safety - reducing collisions and accidental deaths;
- planning for, and reacting to emergencies such as floods; and
- being a positive mentor and role model for young people.

#### *Primary care trust*

Health is a statutory partner in CDRPs through legislation. Its role is often problematic and they have been the most difficult partner to engage in CDRPs. Areas where health has a role in community safety include:

- tackling the misuse of alcohol, drugs and other substances, commissioning and providing appropriate drug and alcohol services;
- arranging for the provision of health advice or treatment for people who put themselves or others at risk through their use of drugs or alcohol;
- helping to support the victims of domestic violence; and
- working with other local partners to help prevent problems occurring in the first place, for example by alerting the police to licensed premises where a lot of alcohol-related injuries occur.

#### *Probation*

Each provider of probation services in an area is expected to become a responsible authority through legislative changes which are likely to take effect from April 2010. Probation authorities will then have an equal role in CDRPs alongside the other five responsible authorities. Some probation areas already have effective relationships and a clear role within local partnerships, although the duty placed on partnerships to address re-offending and on probation to be a full responsible authority will enhance this relationship in the future.

Probation is part of the **National Offender Management Service (NOMS)**, which also runs prisons and therefore has an important role in the criminal justice system. The changes planned through developments in NOMS will bring about **Probation Trusts** who will both commission and provide court and offender management services.

Some examples of probation's role include:

- preparing pre-sentence reports to help magistrates make sentencing decisions;
- supervising community orders, including **Community Payback**;
- helping offenders develop life skills so they can get back into education or employment;
- collaborating on programmes to tackle issues like drugs, drink driving and domestic violence; and
- supporting **Multi-Agency Public Protection Programmes (MAPPA)** which assess and control high risk offenders on release

### 1.5 The performance landscape for crime and policing

The performance landscape for community safety, and CDRPs, is changing.

Scrutiny should be aware that police and community safety partnerships are adjusting to significant changes in planning, monitoring and assessment. Although, the changes brought about in the Policing Green Paper should make it easier for the police to work even more collaboratively at the local level, but there may be a period of adjustment and learning, which could even create opportunities for scrutiny to contribute constructively through challenge and help with policy development.

Some of the changes are:

- introduction of the Policing Pledge;
- greater focus on rigorous scrutiny of performance of the police force by the police authority;
- external monitoring to move from the Home Office to Her Majesty's Inspectorate of Constabulary (HMIC);
- crime maps and neighbourhood-level information now available for all 43 forces from December 2008;
- much more public information – surveys, website with quarterly information, public reporting of police authority inspections, letters from HMIC to chief constable and chair setting out performance issues and requiring an action plan; and
- greater focus on self improvement and peer support. Regional Improvement and Efficiency Partnerships will have responsibility for supporting CDRPs.

#### **Confidence**

The most significant recent change for both the police and partnerships is in a new approach to dealing with community confidence. All other targets on crime have been abolished except for one, which is a public perception indicator measured through the British Crime Survey. The question they ask members of the public is whether they agree with this statement:



*The police and local council are dealing with the anti-social behaviour and crime issues that matter in this area.*

Confidence presents a significant opportunity for scrutiny – the most significant factor in the Metropolitan Police Service’s approach to confidence is community engagement. In representing the community, scrutiny has the potential to make a real contribution to understanding confidence and increasing it.

## **1.6 Scrutiny and community safety – working together**

Community safety partners have a long history of working together and getting results. The introduction of crime and disorder scrutiny committees enhances existing partnership arrangements by developing a clear structure for overseeing and reviewing the delivery of joint responses on community safety and by creating a clearer link between partner agencies and the public on community safety.

Because the role of scrutiny should be focused on the partnership as a whole, if issues arise which relate specifically to a particular partner organisation, it may be appropriate to refer such issues to the governing bodies of that organisation for action.

Scrutiny, done well, can always add value. Public services can be improved by an independent eye providing balanced, researched and constructive ideas. Part of that success, however, depends on choosing the right topic and understanding the landscape. Here are some suggestions about how the scrutiny of crime and disorder matters could add value and focus on issues that matter to the public:

**Neighbourhoods** – Neighbourhoods are very important for both community safety and councillors, but understanding how to make the most of this connection may need some careful investigation – there is no national direction on what neighbourhoods should look like, so they are different everywhere. But every part of England and Wales has a neighbourhood policing team, and many local authorities have linked this with their own neighbourhood management and with ward councillors.

**Confidence** – The new confidence agenda for councils and the police presents real opportunities for scrutiny. As well as being a shared responsibility across the two organisations, it’s also an area that councillors should have a unique perspective on. As the police and partners develop an increased focus on communicating and engaging with the public, scrutiny may be able to provide practical help and suggestions. This might draw on community knowledge, or help link the police with the experience of other services in the area that have been successful at building a connection with local people. Police authorities are tasked to hold the Chief Constable to account for performance against the

confidence measure, so this might also be a fruitful area for joint scrutiny with the police authority.

**Criminal justice** – The Policing and Crime Bill contains measures to add reducing re-offending to the core areas of focus for CDRPs, as well as increasing the responsibilities of probation. These changes, along with a clear focus on integrated offender management will mean that there will be a period of change. The Ministry of Justice is also encouraging magistrates to become more involved in engaging with the community. Partnerships might benefit from the support of scrutiny to help them manage these transitions successfully, and get the most from better engagement with the criminal justice community.

**Territory and hierarchy** – Partnership working is complex, particularly in areas with complex geography such as two-tier areas. There can be tensions between the county's LAA – which will have community safety targets - and district CDRPs – because in most cases CDRPs exist at district council boundaries although there is a requirement for county co-ordinating arrangements to add value and bring together district community safety activity. For scrutiny to be successful, councillors need to develop an understanding of what the local crime and disorder structures are, the dynamics that exist at different layers of partnership activity and of any tensions that might exist. Scrutiny provides an invaluable tool in offering an independent voice to challenge whilst still respecting local flexibilities and sensitivities.

### **Choosing a community safety topic...**

**Bedford Borough Council** has an effective process for choosing topics which has helped them work in closer partnership with the police. When developing the scrutiny work programme, they carry out a formal consultation process which includes direct mail to partner organisations, advertisements in the local media and borough and parish council newsletters, and discussions with the directly elected mayor, councillors and the citizen's panel.

On one occasion, the police responded to this invitation and requested a review of local "cop shops" and Police Community Support Officers (PCSOs). This created a context that was followed up by collaboration throughout the process. When a public forum was held in a local school to gather scrutiny evidence, it carried both the council and police logos and attracted a good audience. Members got 'their hands dirty' by spending half a day on the beat with PCSOs. PCSOs completed confidential questionnaires which also went to the council's own street and park rangers.

At the end of the process, the police and community safety teams remained involved, participating in both the review of the evidence and the informal meeting to consider what recommendations to include in the review final report.

As a result of this collaborative approach, the report was accepted and police implemented the majority of the recommendations, twice reporting back to the scrutiny committee on progress. More widely, the review developed and cemented relationships and demonstrated the value scrutiny can add to partners' own priorities.

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## Section 2 What good scrutiny of crime and disorder would look like – putting it into practice

### Section 2.1 What scrutiny is, and why it is important

*You might find it most useful to read this section if you are a community safety partner.*

In 2000, the Government passed laws changing the way in which most councils conducted business and made decisions. Up until that point, decisions had been made in committees. All members of the council were on one of these committees and (theoretically) could play a part in the decision-making process.

Now, decision-making in all but a handful of small district councils (called “fourth option authorities”) is carried out by an executive. This is either an elected mayor, or a cabinet of a number of councillors, each with responsibility for a specific policy area.

To balance this concentration of executive authority and to ensure that other members could contribute to the council’s decision-making and policy development processes, the Government made provision for what was known as ‘overview and scrutiny.’ Under section 21 of the Local Government Act 2000, local authorities altering their executive arrangements would have to set up a committee, or committees, of the council to carry out this overview and scrutiny work. The Government did not specify what the roles of these committees would be, but most authorities sought to establish a system whose responsibility would be both to hold the executive to account and to carry out policy development work. Common to all scrutiny functions is the fact that they can research issues and recommend actions to be taken, but their only powers are to advise and persuade, based on the evidence they gather and analyse.

Since 2000, the responsibilities and powers of scrutiny committees have expanded considerably.

- Firstly, the bulk of detailed scrutiny work is now carried out away from committees, in “task and finish” groups (some authorities call these by different names, but they are basically small, time-limited informal panels made up of councillors, and sometimes people co-opted from the local community because of their experience or knowledge).
- Secondly, scrutiny work now encompasses the work of partners, not just the local authority. These powers have been given by a succession of pieces of legislation including the Health and Social Care Act 2001 and the Local Government and Public Involvement in Health Act 2007 (more details on these provisions can be found below).

## Principles of Scrutiny<sup>4</sup>

There are four fundamental roles that define good scrutiny and underpin scrutiny activity:

1. provides 'critical friend' challenge to executive policy-makers and decision-makers;
2. enables the voice and concerns of the public and its communities to be heard;
3. is carried out by 'independent minded governors' who lead and own the scrutiny process; and
4. drives improvement in public services

## Scrutiny in action

The practice of scrutiny varies hugely around the country. It is impossible to adopt a nationwide approach or standard for scrutiny, which is why both the introduction of crime and disorder scrutiny arrangements under sections 19 and 20 of the Police and Justice Act 2006, and the regulations that support them, are based on a flexible, enabling approach.

If you are a community safety partner, you will have to work closely with the relevant scrutiny bodies that cover your geographical area to see how the scrutiny of community safety matters will work best for you.

A 'one size fits all' approach is not appropriate and this guidance provides examples of high-quality scrutiny work to support local authorities in developing an approach to crime and disorder scrutiny that both fits in with other scrutiny policies, takes account of local partnership arrangements, and is proportionate and therefore adds value to local crime and disorder activity. See Section 2.2.

## Politics

If engagement with scrutiny (the concept of it, and as it is practiced in local authorities) is a new thing for you, you may be concerned about politics. You may be especially concerned that, by attending committee or giving evidence in another way, you will be drawn unwillingly into political debate.

Scrutiny as practiced in most authorities is generally non-party political in its approach. Councillors have done a great deal to ensure that a culture of consensus operates on committees, and members of all political parties work well together on many councils. While disagreements may arise, all councillors have a commitment to ensuring that the work they do, and the work that the authority does, meets the needs of local residents.

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<sup>4</sup> According to research carried out by the Centre for Public Scrutiny

Sometimes this commitment manifests itself in political discussion and debate. As partners and councillors alike, you should recognise that scrutiny often examines subjects that are highly political in nature.

This is not necessarily a negative thing. Some of the best examples of good scrutiny are instances where members, officers and partners have harnessed the power of political debate to carry out thorough analysis of a given issue. For example, there have been a number of highly successful reviews into local residents' fear of crime – an emotive and political issue which members, with their understanding both of local politics and the local community, are extremely well placed to investigate.

## **Section 2.2 – Structural issues**

### In English unitary areas

The boundaries of unitary areas in England (areas where a single local authority is responsible for a given geographical area), will only rarely match the boundaries of a police area, or the operational area of another partner (this is often called co-terminosity). Often, a single community safety partner might have to deal with a number of different authorities operating in neighbouring areas. This can have the effect of stretching resources, and duplicating scrutiny activity undertaken in different authorities. It may be a particular challenge for police authorities.

Because of the problem of co-terminosity, partners and those scrutinising their actions alike should be careful both to ensure that the demands that they make on each other are not unreasonable, and that neighbouring unitaries work closely with one another – aligning their work programmes to minimise duplication where possible.

London boroughs are also unitary authorities, but the governance position here is slightly different given the role played by London's Mayor. Community safety partnerships should still engage with London borough scrutiny as above, but there should be recognition that the Greater London Authority is likely to have an interest in some of the work of partnerships, where it has broader implications.

### In two-tier areas

Two-tier areas present some complications. These are where (usually) a number of district councils, and a single county council, operate in a given geographical area. Responsibility for specific services are divided between districts and counties. The division of services is historic in nature and can often be difficult for those outside the local government sector (and, indeed, for many within it) to understand.

Some district councils are so-called “fourth option” authorities. This means that they have not adopted the new executive arrangements, and still operate under the old committee system. However, most of these authorities operate a scrutiny function of some kind, which will need to accord to the same principles and requirements set out in this guidance for other authorities.

If you are working with a district council or county council as a partner, you should consider the following:

- You should not assume that you will be able just to talk to the county (or conversely the districts) to the exclusion of others, simply because they cover the same geographical area (and even though some district councillors are also county councillors).
- You should not assume that talking to the districts and the county will involve duplication of work – as stated above, they have separate roles and functions.
- You should encourage the districts and the county to work together to deliver a scrutiny function that is able to add most value in the context of what are likely to be quite complex local governance arrangements.

If you are a councillor or officer in a district or county council, you should consider the following:

- You should work with the other councils in the county area to see if you can develop a joint approach to the scrutiny of community safety issues. A number of counties have already started developing joint scrutiny across the board in a county – **Cumbria** and **Cambridgeshire** are examples of areas where councils have come together to carry out scrutiny work which cuts a cross a number of different authorities in a two-tier area. This could take the form of a standing arrangement, or a more ad hoc approach, whereby you could consider whether other councils in your area are likely to have an interest in the topic you are considering for scrutiny, and, if so, seek ways of working collaboratively.
- You should also work with other councils in developing your work programme. By so doing, you can identify areas where more than one authority is planning to carry out a piece of work on a given subject over the course of a municipal year. The evidence-gathering process can be planned so as to ensure that multiple pieces of work complement each other. There may be a possibility for carrying out such work jointly, as described above. This will minimise the risk that partnerships will be expected to contribute to a large number of reviews on a similar subject at the same time.
- Community safety partners may not understand the distinction between work undertaken in district and county councils. When planning joint work,

you should consider how districts and the county will work together on community safety issues. You should not assume that the county will automatically “lead” on community safety issues for the area.

## Section 2.3 – Key areas for scrutiny

### Use of different techniques

Scrutiny can take a variety of different approaches to scrutinising community safety issues. While the focus of sections 19 and 20 and the regulations, is on committees, a lot of scrutiny work is likely to be undertaken in different ways.

- **Policy development** – scrutiny committees may carry out in-depth scrutiny reviews focused on a specific topic relevant locally. Often this is done by means of a task and finish group, which will examine evidence from a wide variety of sources before producing a report and recommendations, to which partners and/or the council’s executive will have to respond. These pieces of work arguably have the most impact on local policy making, and we will provide you with some examples of them below.
- **Contribution to the development of strategies** – if the community safety partnership is putting together a strategy, plan, or policy, it may be useful to build in a process for scrutiny at draft stage. Councillors can provide valuable evidence to support the drafting process – especially intelligence from the local community.
- **Holding to account at formal hearings** – bringing in representatives of the partnership and questioning them about their roles, responsibilities, and activities. This is the simplest method for scrutiny to “hold the partnership to account”, though this has limitations in terms of constructive outcomes and should be a small part of interaction between scrutiny and the partnership.
- **Performance management** – examination of the performance of the partnership, often using high-level scorecards or, where appropriate, more detailed data. The best scrutiny functions will use this as an opportunity to look at performance “by exception” (which will highlight both particularly good, and particularly poor, performance), as part of their existing processes for monitoring performance across the Local Area Agreement. This could involve the committee looking at particularly good performance, to see what lessons can be learned, thus sharing good practice across all public and third sector organisations operating in the local area.



## Comprehensive area assessments and scrutiny

CAA is about providing for the public a rounded view of the performance of local public bodies and how they deliver in partnership. Judgements are based on the evidence that public bodies generate through their ordinary working, and therefore high-quality evidence from scrutiny will appropriately influence Audit Commission leads in making those judgements.

Generally speaking, scrutiny has two important roles to play within the assessment process:

1. Looking at the results of assessments, and using this data to decide which areas of crime and disorder/community safety activity should be the subject of scrutiny work.
2. Carrying out scrutiny investigations which feed into the assessment process. In particular, scrutiny may want to focus on identifying areas of exceptionally good performance that merit 'green flags.'

## Particular strengths for scrutiny

Scrutiny can, by using the different techniques above, apply itself to a number of different policy areas. We have identified a number of particular strengths of scrutiny – engagement and involvement of local people, analysis of issues of local concern, and promotion of joint working – and provide a number of examples of successful reviews demonstrating these.

### *Engagement and involvement of local people*

Detailed scrutiny work can help the community safety partners to involve local people more in the work they carry out. This can be difficult for partners to do on their own, and the experience and knowledge – and community intelligence – which councillors can bring to the process is invaluable.

**Rugby** was one of the first councils to pilot the operation of community safety scrutiny. To involve the community in the work they undertake, they have decided to co-opt a number of community representatives onto the committee that looks at community safety issues..

Of course, you may feel that a more flexible approach is required. Many authorities have involved local people closely in carrying out work by co-opting them onto informal “task and finish” groups instead of onto the formal committee.

Even traditional public meetings can be worthwhile in gathering valuable evidence which can be used to influence future policy-making. **Waltham Forest** held a public meeting about knife crime, focusing on children and young people, which heard emotive evidence from victims and relatives on the devastating

effect of such crime on the community, as well as positive and constructive ideas on how the problem could be solved.

### *Analysis of issues of local concern*

The fear of crime is a significant issue for many people. This can cause problems for partners, who find it difficult to reconcile this perception with the reality, in many areas, of falling crime levels. This can be interpreted by local people as an unwillingness to respond to problems which they know exist in the local community, irrespective of the evidence which has been gathered by sources such as the council and the police. Scrutiny can play, and has played, a vital role in resolving this impasse and setting out a way forward for local people and professionals.

In **Harrow**, particular concerns arose when it became apparent that, although Harrow was London's safest borough in terms of violent crime, the fear of crime was rising almost exponentially, and was a key issue for residents as identified through the Quality of Life survey. Members decided to conduct a review on the subject which culminated in a conference bringing together local people and a wide range of community safety – and other – partners in the local community. This led to a more keener understanding amongst partners and the council of how the issues around perception of crime had arisen, and a commitment to tackling these issues. Recommendations were made which contributed to a significant reduction in the fear of crime the following year.

In **Middlesbrough**, members carried out work into the perceived problem of “teenagers hanging around”. Again, this was an issue of perception. By taking evidence from young people and those who felt threatened by their behaviour, members were able to build an understanding between the different groups involved, and present a report on the matter which informed local partners' responses to the fear of crime (and encouraged joint working between community safety partners and others).

Anti-social behaviour is another issue which is often high on the local political agenda, connected to the more general fear of crime which we have covered above. Here, again, scrutiny can help to cut through perceptions and provide clear evidence to back up given policy recommendations.

For example, responding to concerns about the rise in violent alcohol-related crime in its city centre, **Stoke** carried out a review of the issue which involved community safety partners, and others more widely involved in business and regeneration. Recommendations included the need to highlight to the council and partners of the good work already being undertaken and joint working between transport providers, the licensing authority, businesses and community safety

partners improve the night-time environment.

### *General benefits of joint working*

In **Redbridge**, the scrutiny function carried out an in-depth piece of work into CCTV. This resulted in the council and a number of partners – not just CDRP partners – putting together a strategy for the more effective deployment and use of CCTV cameras. This included the placement of relocatable cameras, and the requirement that the likely effectiveness of new installations would have to be demonstrated, with agreement being reached across the partnership.

As demonstrated by our case study example of **Haringey** – set out later in this document - scrutiny can also work well to improve relationships between partners.

Members in **Middlesbrough** have recently been carrying out work on the responses of the criminal justice system to the needs of victims of crime. This work involved a large number of local partners, including Youth Offending Teams and the Probation Service. It looked at the difficult issues around the differences between victims and perpetrators of crimes, and the chains of events that can lead one to the other. It evaluated the services provided to such people by a whole range of partners, identifying gaps and seeing where joint working needed to be improved. This kind of work is particularly valuable in creating more meaningful partnership working that can go beyond high-level agreement over strategy into sustained collaboration on operational issues.

In **Oxfordshire**, the county's Community Safety Scrutiny Committee carried out a review to answer the question, "How can Oxfordshire County Council and county councillors best engage with the county's Neighbourhood Action Groups?" These groups were set up to work with the police's small ward-level community policing teams. Recommendations were made which included the enhancement of information sharing between NAGs and other community safety partners – thus improving the extent to which community intelligence found its way into more strategic policy-making – and an increase in resources, both from the police and the council, to ensure that NAGs could be of maximum effectiveness.

In **Cardiff**, the scrutiny function carried out a review of the area's approach to community safety, with the intention of "mainstreaming" an understanding of community safety (mainly across the council), in response to the objectives of section 17 of the Crime and Disorder Act (which we explained in section 1).

Many of these issues will be explored in more depth in Section 3, below.

## **2.4 More general issues around partnership working**

The scrutiny of community safety issues is just one part of a wider agenda in local policy-making for partnership working. Scrutiny has a significant opportunity to contribute to this agenda, and will be doing so in a number of ways:

- through providing evidence to influence judgements as part of the Comprehensive Area Assessment;
- through monitoring the delivery of partnerships against the negotiated targets in the Local Area Agreement; and
- through an understanding of the wider implications of community safety issues, informed by section 17 of the Crime and Disorder Act.

For this reason, it is important to emphasise that the scrutiny of community safety partners and community safety issues is not a stand-alone exercise. It should always be seen in this wider context. Scrutiny will have a role to play in linking up partners working across the spectrum of local policy-making – not just those working in community safety.

Councils should develop ways to integrate the scrutiny of community safety issues within a cohesive and coherent strategy for the scrutiny of other partners and the services they deliver.

## Section 3 - Detailed guidance on sections 19 and 20 of the Act and the Regulations

### 3.1 Committee structures

**Section 19** of the Police and Justice Act 2006 requires every local authority to have a crime and disorder committee with the power to review or scrutinise decisions made or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions. The Crime and Disorder (Overview and Scrutiny) Regulations 2009 (the Regulations) complement the provisions under section 19.

All authorities – including fourth option authorities - will need to create, or designate, a crime and disorder committee to deal with crime and disorder scrutiny (see section 2, above, for more detail on executive arrangements).

The terms of reference of the committee are to scrutinise the work of the community safety partnership and the partners who comprise it, **insofar as their activities relate to the partnership itself**. These partners are listed in section 1, above.

It will be up to each authority – along with its partners - to decide on the best way to put procedures in place for these new scrutiny powers.

The Act and the Regulations do not require councils to alter existing committee structures. There, must, however, be a formal place where community safety matters can be discussed. The crime and disorder scrutiny role could be undertaken by:

- a dedicated crime and disorder overview and scrutiny committee (or Sub-Committee) This may be required where there is specific demand – for example, in the case of larger authorities or those councils with a well-developed system of subject-based sub-committees; or
- the main overview and scrutiny committee, in those authorities which only have one or two scrutiny committees. The committee could establish task and finish groups with the specific remit to deal with crime and disorder scrutiny matters, while retaining the ultimate responsibility to look at community safety issues. A small group of Members with a specific remit to scrutinise these crime and disorder issues would enable the Members to focus/specialise on those issues and provide effective scrutiny of crime and disorder matters. The use of small task and finish groups of this type could prove to be an effective technique where local authorities and their partners would rather not use a formal committee for the discussion of all community safety issues.

### Section 3.2 Role of the committee

Whether you are a councillor or a partner, you will find that scrutiny work is more effective where it focuses on a policy issue, rather than on a single organisation.

This is why the legislation gives powers to scrutinise the CDRP, rather than the partners – this supports a focus based on policy and finding solutions. Focusing on policy :

- gives the partners the reassurance that the crime and disorder scrutiny committee is there to ensure that the community safety partnership is accountable and its performance is improved, rather than just 'having a go' at the partners;
- emphasises the fact that scrutiny is focused on improvement, on enhancing the performance of existing services, and on a constructive examination of the priorities of the partnership; and
- means that there is wider scope for the committee, or group of members, to cut across organisational boundaries over the course of their investigation.

The role of the committee in whichever form it is applied should be as a 'critical friend' of the community safety partnership, providing it with constructive challenge at a strategic level rather than adversarial fault-finding at an operational level.

At a basic level, the role of the committee is to do the following:

- to consider Councillor Calls for Action that arise through the council's existing CCfA process. Detailed guidance on CCfA has already been issued. Although the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007 put in place CCfA provisions for community safety and for other local government matters respectively, local authorities should ensure that their procedures for all CCfAs are the same, to minimise unnecessary bureaucracy.
- to consider actions undertaken by the responsible authorities on the community safety partnership; and
- make reports or recommendations to the local authority with regard to those functions. In practice, the nature of the committee and its work should mean that recommendations will be directly for responsible partners as well. We will discuss this issue later in this section.

The committee should include in its work programme a list of issues which it needs to cover during the year. This should be agreed in consultation with the relevant partners on the community safety partnership and reflect local community need.

**Councillor Call for Action (CCfA)** for both local government matters and for crime and disorder matters came into force in April 2009. CCfA gives councillors a new right to raise matters of local concern with their council's overview and scrutiny committee. Overview and scrutiny committees can then decide whether to use their powers to investigate the issue.

There are a range of options available to committees in considering how to respond. They could, for example, instigate a review of policy, call members and officers to attend a meeting, and answer questions or make recommendations to the executive. They can even require the executive to review a decision that it has made.

CCfA is therefore a valuable tool in equipping councillors to act as powerful advocates for the communities they serve and to strengthen still further their role as community champions. Councillors will of course continue to resolve issues informally, as they do now. But where they are not satisfied that real action has been taken to resolve the issue they have raised, they have the ability to ask the overview and scrutiny committee to take the matter further.

The crime and disorder CCfA will be an important tool for community safety partnerships to work together to resolve crime and disorder problems, in a forum which is open to the public. It should therefore boost public confidence that police and local authorities are acting on crime and anti-social behaviour issues.

More information on CCfA can be found in the IDeA and CfPS Best Practice Guide <http://www.idea.gov.uk/idk/core/page.do?pageld=9410176>

## Protocols

Throughout this section we suggest that partners and the scrutiny function at the local authority (or local authorities) might want to consider developing a short, flexible and meaningful protocol which lays down the mutual expectations of scrutiny members and partners of the community safety scrutiny process. This could well enable you to embed the committee's work programme more effectively within its core purpose. Certainly, getting the work programme right will be crucial to the success of the scrutiny process for community safety.

If you are thinking of developing a protocol, do remember that it should be a means to an end – a method of improving the relationship between the scrutiny function and its partners. It is not a legal document setting down minimum standards or something which you are required to “comply” with. The example below, of Haringey, illustrates the point of meaningful joint working, and of the virtues of seeking to build real relationships.

### **Building relationships with community safety**

**The London Borough of Haringey** has been doing in-depth reviews of community safety for many years, and has a strong relationship with community safety partners. Building that relationship for them was all about people. Firstly, the council community safety team sat across the corridor, and they built informal relationships as officers. Secondly, the cabinet member for community safety was once a scrutiny chair, and she acted as an advocate for scrutiny, suggesting ways that they could get involved and support what partners were doing. Thirdly, the police seconded an officer to work in the council for several years so the scrutiny function was able to build relationships with a familiar face. These opportunities enable the scrutiny function to build a reputation for being an independent voice. Partnerships can have their own tensions, and partners in Haringey learned that scrutiny could moderate between different views and carry out genuinely useful work that partners valued, supporting policy formulation and facilitating a community response. Their workstreams included:

- Anti-social behaviour – this was successful because it was deliberately timed to fit with a strategy the partnership was writing and could therefore feed into the strategy directly;
- CCTV – the partnership requested the scrutiny functions help as part of a wider review of CCTV, and even provided funding to engage Leicester University for expert advice; and
- street prostitution – this review also used a well-known criminologist, and it was so well regarded that Haringey’s scrutiny function was later called as a witness by the London Assembly during their own review of the topic across London

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### **3.3 Frequency of meetings**

The regulations leave the frequency of meetings to local discretion, subject to the minimum requirement of once a year.

If a local authority decides to undertake “set piece” community safety scrutiny only once a year, this annual meeting could be in the form of an event looking at crime and disorder matters and discussing which crime and disorder matters should be considered in the next municipal year as matters of local concern.



In addition, the scrutiny function should consider community safety issues more consistently throughout the year, just as it would with any other subject matter. Although it is difficult to suggest an arbitrary figure for an “ideal” number of meetings, scrutiny functions and partners should work together to come up with local solutions, which might form a combination of formal meetings, informal “task and finish” groups, or other methods of evidence gathering and public involvement.

As part of the accountability role of the committee, it might be useful to request the attendance of senior members of the partnership at key meetings through the year. This might include the chair of the partnership, the Cabinet member with community safety responsibilities, or senior members of partner organisations, such as the local police commander.

## Two-tier scrutiny

We touched briefly on issues of two-tier scrutiny in Section 2, but this section goes into more detail on the practicalities.

The requirements under sections 19 of the Police and Justice Act and the Regulations will apply to both county and district local authorities.

Whilst it will be for each local authority to decide how it will implement crime and disorder scrutiny, it makes sense that both tiers work together as far as possible to avoid any duplication. As explained in Section 2, above, districts and counties should consider developing a joint approach for looking at community safety issues that cut across organisational boundaries.

### Joint crime and disorder committees

**Section 21** of the Police and Justice Act 2006 amends section 5 of the Crime and Disorder Act to enable the Secretary of State to make an order requiring councils to appoint a joint committee to carry out crime and disorder scrutiny functions. This will be used **where CDRP mergers have taken place**, so that responsible authorities and co-operating bodies are not required to answer to two or more separate crime and disorder committees. Otherwise, committees may find it beneficial to work together informally..

A number of local authorities have already taken this joint approach and because of the link with the LAA and community safety, one possibility would be that community safety issues could form part of the work of a joint overview and scrutiny committee.

Councils in **Cumbria** have created a Joint Committee which aims to take a

strategic overview of the performance and delivery of the community strategy as co-ordinated through the Cumbria Strategic Partnership.

**Staffordshire County Council** have set up a Partnerships, Scrutiny and Performance Panel to examine the performance of the Local Area Agreement which includes the delivery of the community safety agenda.

A county-wide committee specifically for community safety might be made up of the chairs of the district council crime and disorder committees as well as some county councillors – it should be pointed out that councils will still need their own committees despite the existence of joint structures. This is as much for the sake of pragmatism as to meet the requirements of the Act – there will always be local community safety issues best dealt with by individual authorities.

While a joint approach to crime and disorder scrutiny is beneficial, it should not be undertaken instead of scrutiny by individual local authorities at a district or county level, but should be used to complement that form of scrutiny. It should also be emphasised that it is quite possible to take advantage of many of the benefits of joint working merely through enhanced communication between neighbouring authorities and their relevant partners. For many authorities and their partners, joint arrangements may not be appropriate or desirable at present.

### **Section 3.4 Co-option**

The regulations allow crime and disorder committees to co-opt additional members to serve on the committee. These co-optees can be specialists in particular areas and can bring great value and expertise to the committee's work.

Members can be co-opted in accordance with the Regulations, which allow a committee to co-opt additional persons provided that they are an employee, officer or member of a responsible authority or of a co-operating person or body and are not a member of the executive of the local authority. The committee can decide whether they should have the right to vote. However, the decision to allow them to vote should be taken in accordance with any scheme in place under Schedule 1 to the Local Government Act 2000. Membership can be limited to membership in respect of certain issues only. The council should take care to clarify the role of such a co-optee, who may be expected, as part of the committee, to hold his or her own organisation to account.

There is also a general power to include additional non voting members under section 21(10) LGA and paragraph 5 of Schedule 8 to the Police Justice Act.

## Co-option and Schedule 1 to the Local Government Act 2000

Under Schedule 1 of the Local Government Act 2000, councils can put in place a formal scheme (similar to the council's scheme of delegations) to allow a co-opted member to have full voting rights.

If you already have a scheme, your co-option plans for community safety must comply with it. Local authorities may prefer ask people [to contribute informally to small task and finish groups or to participate as non-voting members, rather than as full voting members of committees, to ensure that co-optees' work and contribution is focused on areas where they can add most value. So the council and its partners may agree that, although co-option to a committee might be appropriate, the co-optee should not have voting rights.

### Co-option and police authorities

Police authorities occupy a unique position within the landscape of community safety partnerships. They have a clear, statutory role to hold to account the police.

In this context, it is vital that local authorities' community safety scrutiny complements this role. Local authorities should, in all instances, presume that the police authority should play an active part at committee when community safety matters are being discussed – and particularly when the police are to be present.

Local authorities should take the following steps to involve police authorities in work undertaken by their committees.

#### *Option 1*

One member of the crime and disorder committee should be a member of the police authority. We envisage this being the approach that will be adopted by most (but not necessarily all) counties and unitaries.

However, there are a number of circumstances where this will not be possible. In many authorities (unitaries, counties and districts alike) there may be no member appropriate to sit on the committee in this capacity. The principal reasons would be:

- If the relevant local authority representative on the police authority is a member of the executive; or
- If the local authority has no direct member representation on the police authority. There are many areas for which this will be the case, given

that most police authorities cover large areas but only have 9 local councillor members.

### *Option 2*

The second option is for all other circumstances – covering most districts, and those counties and unitaries where having a police authority member on the committee will not be possible.

In these circumstances, a member of the police authority should be issued with a standing invitation to attend the committee as an “expert adviser”. Ideally this would be a police authority member, but subject to local agreement there may be some circumstances, and meetings, where a police authority officer would be more appropriate. For example, care will need to be taken when inviting police authority members to attend when they are also councillors.

Such an advisor would not be a formal member of the committee, but would be able to participate in committee discussion as an expert witness.

Steps should also be taken to ensure that, where appropriate, the police authority have a direct input into the delivery of task and finish reviews that involve the police. The level of involvement in such work that is appropriate can be decided between the police authority and the local authority, the authorities delivering the work.

Agreement over these issues should – as we suggested at the beginning of this section – form part of a protocol between the local authority and its partners. This will allow for local differences, and for agreement over further methods of engagement and involvement – the sharing of work programmes and delivery of joint work pertaining to the police, for example.

The vital thing to remember is that clear and sustained engagement between the police authority and the local authority, as equals, will be necessary to make sure that their roles complement each other. This goes beyond attendance at committee, which should be treated as only one element of this engagement.

These arrangements, and the unique relationship which is necessary between councils and police authorities, should not divert scrutiny bodies or their partners from the fact that the scrutiny of community safety is about much more than the police force and their activities, as we made clear in earlier sections.

### *Option 3*

The third option would be for committees to consider co-opting a police authority member onto the committee when policing matters are being considered, and it would be for the police authority to decide the most appropriate member to

appoint – this can be an independent or councillor member. This would provide a more direct link between the police authority and overview and scrutiny committee and would be particularly relevant if the committee is considering matters directly relevant to policing.

#### **To co-opt or not to co-opt...**

**Suffolk's Local Area Agreement Joint Scrutiny Panel** has adopted co-option as a new way to invigorate scrutiny and involve the community. The panel has appointed six Independent Community Members as permanent co-opted scrutiny members with full voting rights. An advertising campaign was held and applicants were put through a rigorous recruitment process. The roles are well-defined with both job specifications and person profiles. Though the roles were advertised in the media, the most effective marketing was through established networks of people already involved actively in the community.

The Independent Community Members are paid expenses but no salary, and are committed to six meetings a year. In practice, however, they are very enthusiastic and engaged and take part in a great deal more, including task and finish groups. The added dividend of these new faces has been a renewed interest and energy for scrutiny from existing councillors. An Independent Community Member was elected as Chairman by panel members.

The LAA Joint Scrutiny Panel, as well as involving the community, also links together relationships in a two-tier area. The panel has members from the county and each district and borough council in Suffolk, and is a forum which is an effective example of cooperation across the tiers.

**Cardiff City Council** uses expert witnesses to improve its scrutiny reviews. In November 2007 the council did a theme review of the structure in the council for delivering crime and disorder reduction. Cardiff regularly looks to bring in the highest profile experts possible for its theme reviews, such as Professor Michael Parkinson on competitiveness and Ben Page from Ipsos Mori on consultation. For this review they invited South Wales Police, Cardiff Local Health Board, the National Probation Service, Welsh Assembly Government and the Home Office to bring high-level expertise and enhance their understanding of wider issues.

Your contacts for more information:

Sue Morgan, Suffolk County Council, [sue.morgan@suffolk.gov.uk](mailto:sue.morgan@suffolk.gov.uk)  
Richard Phillips, Cardiff City Council, [R.Phillips@cardiff.gov.uk](mailto:R.Phillips@cardiff.gov.uk)

## Section 3.5 Responding to requests

### Requests for information

As part of the crime and disorder scrutiny process, the relevant scrutiny committee will from time to time request for further information from the community safety partnership – performance information, for example.

When asked, the partnership will be under a duty to provide this information. There is no specific timescale for this, but the committee can expect a response to be provided as soon as reasonably possible.

### Timescales

Community safety partnerships will be obliged to respond to requests from committees within a reasonable time. The committee and the partnership may want to agree a certain timescale locally.

Partnerships should bear in mind the need for the information to be relevant to the committee's purposes. There is obviously little purpose in burying councillors beneath a morass of reports filled with technical jargon. This may provide you with an opportunity to reappraise how internal reports could be drafted in a more accessible style and made more widely publicly available. You could assign a named link officer in your organisation to liaise with the scrutiny committee, to ensure that communication is swift and effective, and that requests for information can be dealt with smoothly.

If you are a councillor, or are an officer supporting councillors, you should ensure that requests for information are well focused and thought through. Requests should avoid duplication (with requests made quite recently, or requests being made by neighbouring councils which might impact on the same partner organisations).

### Information requests and data protection

The information provided by responsible authorities and co-operating bodies must be depersonalised, unless the identification of an individual is necessary or appropriate in order for the committee to properly exercise its powers. The information should also not include information that would be reasonably likely to

prejudice legal proceedings or current or future operations of the responsible authority or co-operating body.. In practice, it is unlikely that the committee which will need to receive reports relating to specific individuals, or where specific individuals are mentioned in respect of crime and disorder matters.

Schedule 12A of the Local Government Act 1972 should not be used as a method to bypass the requirement to depersonalise information by placing reports which are not depersonalised onto Part II of a committee agenda, as an item to be heard without the press or public present.

### Making and responding to recommendations

If a committee drafts a report or recommendations which have an impact on community safety issues, the following should occur:

- Copies of the reports and recommendations should be sent to the such responsible authorities or co-operating bodies as are affected by the report or recommendations, or as otherwise appropriate in accordance with section 19(8) of the Police and Justice Act 2006;
- The relevant partner (or partners) should submit a response within a period of 28 days from the date the report or recommendations are submitted (or if this is not possible as soon as reasonably possible thereafter); and
- Following the receipt of the response, the committee will need to agree with the relevant partner(s) how progress in implementing the recommendations will be monitored.

As we have already suggested, a protocol might be helpful to define how these arrangements will work in practice. Such a protocol could well make provision for the scrutiny function to consult the partnership informally on a report, or recommendations, before the report is formally submitted. This consultation will make it more likely that recommendations, when they are formally made, are relevant and realistic.

With this provision there is a clear link between the Police and Justice Act and the Local Government and Public Involvement in Health Act, which also requires partners to respond to requests for information, and to respond to reports and recommendations made by an authority's scrutiny function. Section 19 of the Police and Justice Act complements these existing powers.

### **Section 3.6 Attending committee meetings**

From time to time, the committee may request the attendance of a representative of the partnership.

It is common practice in local authority overview and scrutiny work for people to attend to give evidence to scrutiny enquiries. It is often good practice for those attending to receive details of why they are attending such meetings.

If you are a community safety partner, and you receive such a request, you are obliged to send a representative to attend unless reasonable notice has not been given to the person of the intended date for the meeting. What is meant by "reasonable notice" is not clarified in the regulations or legislation and is something which could be defined in a local protocol on crime and disorder scrutiny as agreed by the committee and local partners.

You should not consider such an invitation as a threat. Instead, it is an opportunity for crime and disorder partners and the committee to discuss issues of mutual concern or to highlight positive work to help reduce crime and disorder. The attendance of officers/employees can also help support local public scrutiny. It will generally be more appropriate for more senior employees/officers to attend, mainly because they are likely to have the general expertise to enable them to answer policy questions at the meeting itself.

Likewise, if you are a councillor, you should not consider the power to invite representatives of the partnership to attend to discuss community safety issues as a power that you can exercise without regard to the capacity constraints of the partners you are inviting, or the value they are likely to be able to add to a committee discussion.



### *Glossary*

Here are some terms you may come across that have not been mentioned elsewhere in this document:

- **Activity Based Costing (ABC)** –an approach taken in the police which tries to measure how police time is spent, in order to improve efficiency. It is being scaled back for being too bureaucratic, but will still be used in a more limited way.
- **Assessment of Policing and Community Safety (APACs)** – is the assessment framework for the police and community safety, and has been designed to link with Comprehensive Area Assessment. It replaces the Policing Performance Assessment Framework (PPAF).
- **Justice Reinvestment** – is a concept from America that aims to reduce re-offending by moving resources down to the local level. There is a pilot currently being run to test this idea in London called “Diamond Districts”.
- **Local Criminal Justice Board (LCJB)** – is the partnership board that oversees criminal justice. Though it is called “local” it usually operates at a higher level than the local authority.
- **National Intelligence Model (NIM)** – is a business model for policing that uses intelligence about crime patterns to inform how resources, including across partnerships, are deployed.
- **Prolific and other Priority Offender scheme (PPO)** – is a scheme run by all CDRPs to provide a focus on offenders who have been identified as posing the highest risk to communities.
- **Restorative Justice** – is an approach used alongside criminal justice to help victims gain a sense of closure, help offenders recognise the impact of their crime and reduce the chance they will re-offend.
- **Regulation of Investigatory Powers Act (RIPA)** – is legislation that gives local bodies powers to use covert techniques such as surveillance.
- **Serious and Organised Crime Agency (SOCA)** – is the national agency with responsibility for tackling crimes such as drug trafficking, money laundering and major fraud.

- **National Policing Improvement Agency (NPIA)** – is the policing equivalent of the Improvement and Development Agency (IDeA), producing guidance, learning and development, and providing some national infrastructure.
- **Her Majesty's Inspectorate of Constabulary (HMIC)** – is the inspectorate for policing which works alongside the Audit Commission on Comprehensive Area Assessment, and delivers APACs (see above).
- **Association of Chief Police Officers (ACPO)** – is the national body representing Chief Constables, but has a wider role in developing policy than most professional associations.

### **First Step Resources**

#### **Crime Reduction Website**

[www.crimereduction.homeoffice.gov.uk](http://www.crimereduction.homeoffice.gov.uk)

This website is the Home Office's one stop shop for information on crime reduction. There are some interesting sources of information – for example, at [www.crimereduction.homeoffice.gov.uk/toolkits](http://www.crimereduction.homeoffice.gov.uk/toolkits), topics cover a range of areas which might arise in a scrutiny review, such as Fear of Crime or Alcohol Related Crime. The toolkits include facts and figures and policy context for each topic, which could be a useful shortcut for desk based research. There is also a collection of research on a wide range of topics, from Neighbourhood Watch, to Street Sex Work to Taxi Robberies.

The research tab also has a page providing direction to all the latest sources of crime statistics.

#### ***Delivering Community Safety: A guide to effective partnership working (2007)***

This is the official guidance for Crime and Disorder Reduction Partnerships. It sets out statutory requirements, suggested practice, potential barriers and possible solutions and implementation checklists. If scrutiny function is looking to test a partnership against the standard for good practice, this resource is the best place to start.

#### ***Flanagan Review Final Report (2008)***

In 2007 the Home Office announced an independent review of policing by Sir Ronnie Flanagan to look at neighbourhood policing, bureaucracy, accountability and managing resources. Flanagan was then Chief Inspector of Constabulary and is well respected in the policing community. His review was widely welcomed though he explicitly refused to make any positive recommendations about changes to structural accountability in the police. This is a readable report and is a useful insight into concerns and priorities in the policing community.

#### ***Engaging Communities in Fighting Crime (2008)***

This independent review was led by Louise Casey, the former 'Respect Tsar.' with a reputation for toughness and plain speaking. The review focuses on why communities have lost confidence in criminal justice, and why they don't take a

more active role in fighting crime. It is a useful read for those involved in scrutiny because it focuses on public perceptions, is written in a conversational style and makes practical and interesting recommendations, including for local authorities.

***From the Neighbourhood to the National: policing our communities together (2008)***

This is the latest Policing Green Paper, which paved the way for the Policing and Crime Bill. It provides the most recent expression of the current Government's perspective and intentions on policing and community safety. Readers should be aware, however, that the expressed intention to legislate for new Crime and Policing Representatives will not come to pass, as it was dropped from the Bill shortly before publication. Instead an internal Labour party review was set up under David Blunkett to look again at the difficult issue of local accountability of the police.

**Integration Neighbourhood Policing and Management**

There is no publication to support this, but information about the project is available on the IDeA website. The IDeA and National Policing Improvement Agency are co-ordinating a group of 'exemplar sites' to help progress the integration neighbourhood policing with neighbourhood management – one of the key recommendations of the Flanagan Review.

**Tackling Anti-social Behaviour Website**

[www.respect.gov.uk](http://www.respect.gov.uk)

Anti-social behaviour is a key issue, and one that has particular importance for members of the public, and therefore for councillors. This website is a one-stop resource on everything to do with tackling anti-social behaviour. One resource that is particularly practical and interesting is the collection of step-by-step guides to tackling a ranges of very specific problems, from graffiti to mini-motos to fireworks. Scrutiny committees doing themed reviews may find resources here to help them assess performance and identify positive recommendations.

***National Community Safety Plan 2008-11***  
***Cutting Crime: A new partnership 2008-11***

These two documents were published together – one is the overarching strategy on crime, the other is a more focused document on community safety which replaces an earlier plan. The Community Safety Plan reflects the general drive across government to reduce the central burdens on local delivery, though councillors will note there is still a significant focus on national priorities which partnerships will be reacting to. These documents may not be as user-friendly for councillors as some other resources.

STATUTORY INSTRUMENTS

2009 No. 942

CRIMINAL LAW, ENGLAND AND WALES

The Crime and Disorder (Overview and Scrutiny)  
Regulations 2009

*Made*

6th April 2009

*Laid before Parliament*

8th April 2009

*Coming into force in accordance with regulation 1(2)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 20(3) and (4) of the Police and Justice Act 2006<sup>(1)</sup>.

In accordance with section 20(4) of that Act, the Secretary of State has consulted with the Welsh Ministers<sup>(2)</sup> regarding the provisions in relation to local authorities in Wales.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

(2) These Regulations shall come into force in respect of local authorities in England on 30th April 2009 and in respect of local authorities in Wales on 1st October 2009.

**Interpretation**

2. In these Regulations—

“2006 Act” means the Police and Justice Act 2006;

“depersonalised information” means information which does not constitute personal data within the meaning of the Data Protection Act 1998<sup>(3)</sup>.

**Co-opting of additional members**

3.—(1) The crime and disorder committee of a local authority may co-opt additional members to serve on the committee subject to paragraphs (2), (3), (4) and (5).

(2) A person co-opted to serve on a crime and disorder committee shall not be entitled to vote on any particular matter, unless the committee so determines.

(3) A co-opted person’s membership may be limited to the exercise of the committee’s powers in relation to a particular matter or type of matter.

(4) A crime and disorder committee shall only co-opt a person to serve on the committee who—

(a) is an employee, officer or member of a responsible authority or of a co-operating person or body; and

(b) is not a member of the executive of the committee’s local authority (or authorities).

(5) The membership of a person co-opted to serve on a crime and disorder committee may be withdrawn at any time by the committee.

#### **Frequency of meetings**

4. A crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period.

#### **Information**

5.—(1) Where a crime and disorder committee makes a request in writing for information, as defined in section 20(6A) of the 2006 Act(4), to the responsible authorities or the co-operating persons or bodies, the authorities, or persons or bodies (as applicable) must provide such information in accordance with paragraphs (2) and (3).

(2) The information referred to in paragraph (1) must be provided no later than the date indicated in the request save that if some or all of the information cannot reasonably be provided on such date, that information must be provided as soon as reasonably possible.

(3) The information referred to in paragraph (1)—

(a) shall be depersonalised information, unless (subject to sub-paragraph (b)) the identification of an individual is necessary or appropriate in order to enable the crime and disorder committee to properly exercise its powers; and

(b) shall not include information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authorities, whether acting together or individually, or of the co-operating persons or bodies.

#### **Attendance at committee meetings**

6.—(1) Subject to paragraph (2), a crime and disorder committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body in order to answer questions.

(2) The crime and disorder committee may not require a person to attend in accordance with paragraph (1) unless reasonable notice of the intended date of attendance has been given to that person.

#### **Reports and recommendations**

7. Where a crime and disorder committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the 2006 Act, the responses to such report or recommendations of each relevant authority, body or person shall be—

(a) in writing; and

(b) submitted to the crime and disorder committee within a period of 28 days from the date of the report or recommendations or, if this is not reasonably possible, as soon as reasonably possible thereafter.

*Vernon Coaker*  
Minister of State

Home Office  
6th April 2009

#### **EXPLANATORY NOTE** *(This note is not part of the Regulations)*

These Regulations are made under section 20(3) (in respect of local authorities in England) and 20(4) (in respect of local authorities in Wales) of the Police and Justice Act 2006. The Regulations supplement the

provisions in section 19 of that Act by making provision for the exercise of powers by crime and disorder committees of local authorities.

Regulation 3 provides that crime and disorder committees may co-opt additional members from those persons and bodies who are responsible authorities within the meaning of section 5 of the Crime and Disorder Act 1998, and from those persons and bodies with whom the responsible authorities have a duty to co-operate under section 5(2) of that Act (the “co-operating persons and bodies”) subject to the provisions set out in that regulation.

Regulation 4 provides that a crime and disorder committee shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions, no less than once in every twelve month period.

Regulation 5 provides that responsible authorities or co-operating persons or bodies must provide such information as is requested of them by the crime and disorder committee, subject to the provisions in that regulation.

Regulation 6 provides that a crime and disorder committee may require the attendance before it of a representative of a responsible authority or of a co-operating person or body in order to answer questions, subject to the provisions in that regulation.

Regulation 7 provides that where a crime and disorder committee makes a report or recommendations to responsible authorities or co-operating persons or bodies in accordance with section 19(8)(b) of the Police and Justice Act 2006, the responses to such report or recommendations of each relevant authority, body or person shall be in writing and within 28 days of the date of the report or recommendations or, if this is not reasonably possible, as soon as reasonably possible thereafter.

(1)

2006, c. 48. Section 20 has been amended by section 121 and has been prospectively amended by sections 126 and 241, and part 6 of Schedule 18 to the Local Government and Public Involvement in Health Act [2007 \(c. 28\)](#). [Back \[1\]](#)

(2)

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act [2006 \(c.32\)](#). [Back \[2\]](#)

(3)

[2008 c.29](#). [Back \[3\]](#)

(4)

Section 20(6A) was inserted by section 121(2) of the Local Government and Public Involvement in Health Act [2007 \(c. 28\)](#). [Back \[4\]](#)

## Appendix D

### Local Government Involvement in Public Health Act 2007 - Extract

#### Section 126

##### 126 Reference of local crime and disorder matters to crime and disorder committees etc

(1) The Police and Justice Act 2006 (c. 48) is amended as follows.

(2) In section 19 (local authority scrutiny of crime and disorder matters), for subsections (3) to (8) substitute—

“(3) A local authority must—

(a) ensure that its crime and disorder committee has power (whether by virtue of section 21(2) of the Local Government Act 2000 or regulations made under section 32(3) of that Act or otherwise) to make a report or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority, and

(b) make arrangements which enable any member of the authority who is not a member of the crime and disorder committee to refer any local crime and disorder matter to the committee.

(4) For the purposes of subsection (3)(b), arrangements enable a person to refer a matter to a committee if they enable him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee.

(5) Subsections (6) and (7) apply where a local crime and disorder matter is referred to a crime and disorder committee by a member of a local authority in accordance with arrangements made under subsection (3)(b).

(6) In considering whether or not to make a report or recommendations to the local authority in relation to the matter, the committee may have regard to—

(a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and

(b) any representations made by the member as to why it would be appropriate for the committee to exercise any power which it has by virtue of subsection (3)(a) in relation to the matter.

(7) If the committee decides not to make a report or recommendations to the local authority in relation to the matter, it must notify the member of—

(a) its decision, and

(b) the reasons for it.

(8) Where a crime and disorder committee of a local authority makes a report or recommendations to the authority by virtue of subsection (3)(a), it must—

(a) provide a copy of the report or recommendations to any member of the authority who referred the local crime and disorder matter in question to the committee in accordance with arrangements made under subsection (3)(b), and

(b) provide a copy of the report or recommendations to such of—

(i) the responsible authorities, and

(ii) the co-operating persons and bodies,

as it thinks appropriate.



- (8A) Subsection (8B) applies where the crime and disorder committee of a local authority—
- (a) makes a report or recommendations to the authority by virtue of subsection (3)(a), or
  - (b) provides a copy of a report or recommendations under subsection (2) or (8)(b).
- (8B) Where this subsection applies—
- (a) the crime and disorder committee must notify the authority, body or person to whom it makes the report or recommendations or provides the copy that paragraph (b) applies, and
  - (b) the authority, body or person must—
    - (i) consider the report or recommendations;
    - (ii) respond to the committee indicating what (if any) action it proposes to take;
    - (iii) have regard to the report or recommendations in exercising its functions.”
- (3) In subsection (9)(b), for “subsection (1)(b) or (6)” substitute “this section”.
- (4) In subsection (11)—
- (a) after the definition of “crime and disorder functions” insert—
 

“electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983;”, and
  - (b) for the definition of “local crime and disorder matter” substitute—
 

“local crime and disorder matter”, in relation to a member of a local authority, means a matter concerning—

    - (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
    - (b) the misuse of drugs, alcohol and other substances,

which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.”
- (5) Section 20 (guidance and regulations regarding crime and disorder matters) is amended as follows.
- (6) In subsections (1) and (2), after “under” insert “or by virtue of”.
- (7) In subsection (5), omit—
- (a) paragraph (f); and
  - (b) sub-paragraphs (i) to (iii) of paragraph (g).

Drugs and Alcohol Directorate (DAD)  
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### Crime trends and performance in Brighton & Hove

This report describes crime trends up to May 2009 and reports against key crime targets relating to the Community Safety, Crime Reduction and Drugs Strategy, 2008-11.

#### 1. Performance against Targets for Key Crime Types, 2008/9 (end of year)

Police recorded crimes, April 2008 to end of March 2009	number of crimes Apr 07- Mar 08	number of crimes Apr 08- Mar 09	reduction target (from 2007/08 baseline)	2008/09 outturn compared with 2007/08		rank within 15 benchmarked CDRPs <sup>a</sup>  (lower rank is better)
				on target	not on target	
			target			
Total Crimes	27,536	25,146	-5%			5
Criminal Damage	4,973	4,179	-5%			11
Serious Violence (GBH/more serious violence)	141	174	-10%			9
Assault: Less Serious Injury (ABH)	2,204	1,876	-5%			8
Domestic Burglary	1,180	1,172	-5%			3
Theft from/of a Motor Vehicle	2,015	2,267	-6%			3
Pedal Cycle Theft	823	941	-10%			6
Domestic Violence Crimes	1,358	1,246	no target			
Racist/Rel. Crimes and Incidents	554	316	-5%			
LGBT Hate Crimes and Incidents	184	129	+5%			

#### Main points

Total crimes reduced by 8.6% in 2008/9 compared with 2007/8, exceeding the 5% reduction target.

Criminal damage and assaults with less serious injury, both high volume crime types, showed very good reductions compared with 2007/8. However, serious violence offences, although much lower in number, showed an increase at the end of the year. However, this is likely to have been influenced by a review of recording practices.

<sup>a</sup> See Appendix for further information around the benchmarking arrangements

After showing an increase earlier in the year, the year end result for domestic burglary was very similar to that of 2007/8. However, both motor vehicle and cycle theft showed a notable increase.

## 2. Performance against Targets for Key Crime Types, 2009/10 (to end May)

Police recorded crimes, April to May 2009 (inclusive)	number of crimes Apr 08-May 08	number of crimes Apr 09-May 09	reduction target (from 2008/09 baseline)	2009/10 performance to end May compared with same period in 2008/09		rank within 15 benchmarked CDRPs <sup>b</sup>  (lower rank is better)
				on target	not on target	
			target			
Total Crimes	4,377	4,718	-3%			5
Criminal Damage	801	868	-5%			10
Serious Violence (GBH/more serious violence)	29	31	-5%			7
Assault: Less Serious Injury (ABH)	341	343	-5%			5
Domestic Burglary	221	230	-3%			2
Theft from/of a Motor Vehicle	339	452	-3%			2
Pedal Cycle Theft	128	182	tbc			6
Domestic Violence Crimes	205	202	no target			
Racist/Rel. Crimes and Incidents	75	64	no target			
LGBT Hate Crimes and Incidents	21	26	no target			

*NB. The data for 2009/10 up to the end of May shown in the above table only cover a 2 month period. Because of normal variations in data, these data may not be a reliable reflection of performance at this early stage in the year, especially in those crime areas where there are relatively low numbers.*

### Main points

Total crimes have increased by 8.4% in the first two months of 2009/10 compared with the same period in 2008/9.

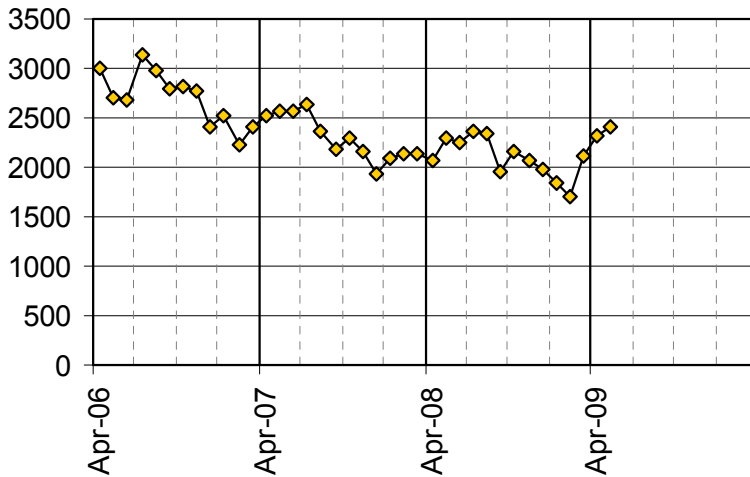
Beneath the total, none of the separate crime types are suggesting an encouraging picture at this early stage in the year, (with the exception of domestic violence and racist/religiously motivated crimes/incidents). Motor vehicle and cycle theft are starting the year with substantially more crimes recorded than at the beginning of last year. This is also the position with criminal damage; these include a significant number graffiti offences carried out by a single perpetrator.

Although crimes are increasing across a range of crime types in the city, we are nonetheless performing better than the average of our benchmarked group on most crime types, and our benchmarking ranking has improved on most of these measures compared with the previous report to the Community Safety Forum.

<sup>b</sup> See Appendix for further information around the benchmarking arrangements

### 3. Crime trends up to May 2009

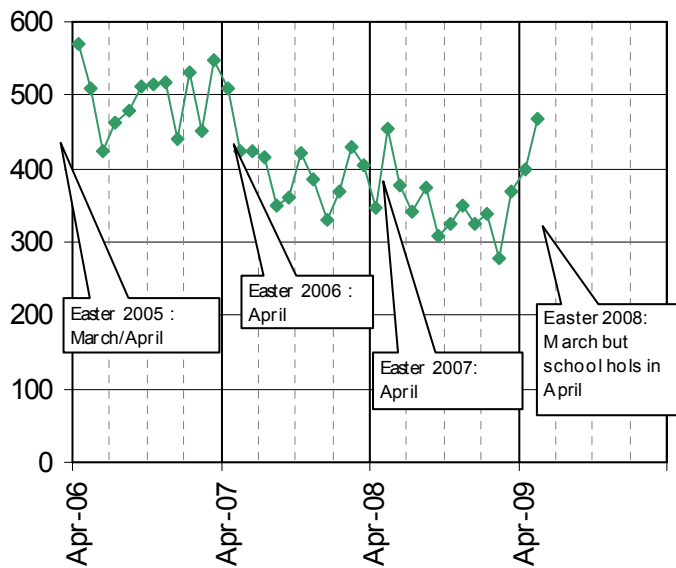
Total Crimes, April 2006 to May 2009



As would be expected in line with seasonal patterns observed in previous years, there has been a rise in total crimes between February and May.

In contrast to the year on year decline over the previous three years, the number of total crimes in the first two months of 2009/10 is about 8% higher than in the same period in 2008/9.

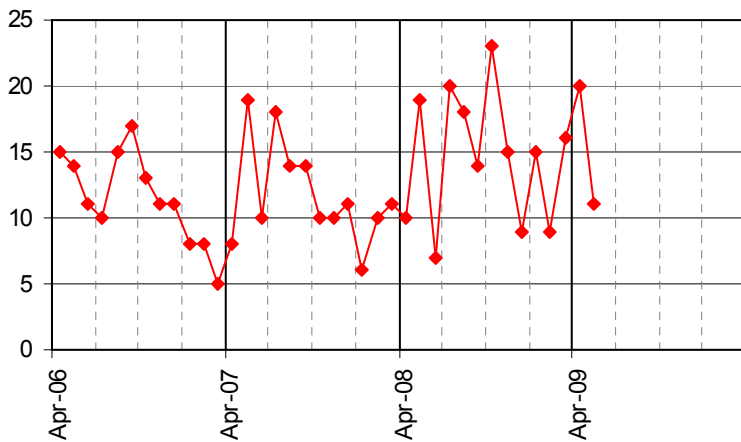
Criminal Damage, April 2006 to May 2009



There has been a steep increase in the number of criminal damage offences since February.

The number recorded in May was the highest monthly figures in the last two years. This included the recording of about 60 graffiti offences perpetrated by the same person.

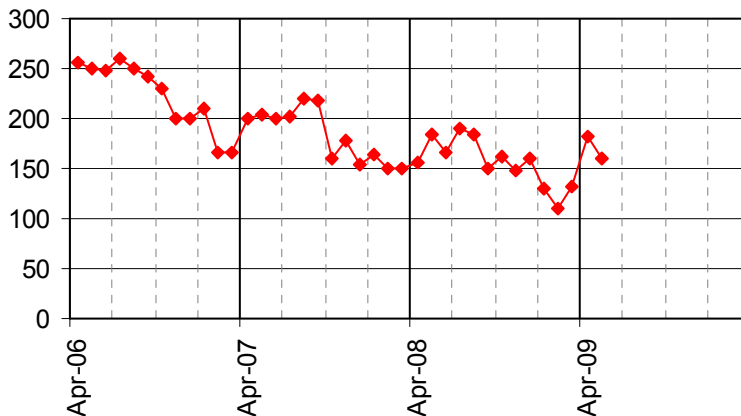
Serious Violence (GBH+)  
April 2006 to May 2009



The number of serious violent crimes (GBH and more serious) in the first two months of 2009/10 (31 crimes recorded in this period) are fairly similar to those in the same months in 2008/9.

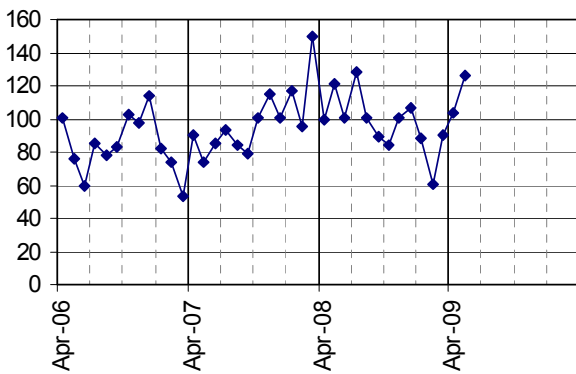
(NB. Categorisation of serious violence crimes was reviewed during 2008 resulting in a slight increase in numbers recorded.)

Assault with Less Serious Injury (ABH)  
April 2005 to May 2009



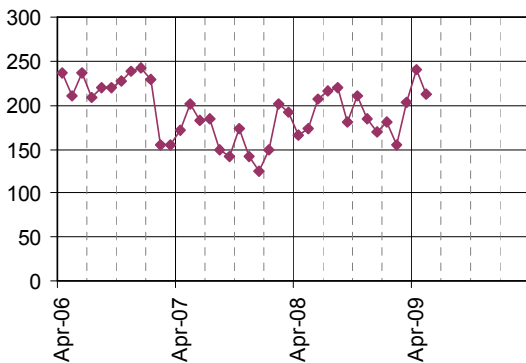
The number of assaults with less serious injury in the first two months of 2009/10 are showing similar levels to those in the same period in 2008/9.

Domestic Burglary, April 2006 to May 2009



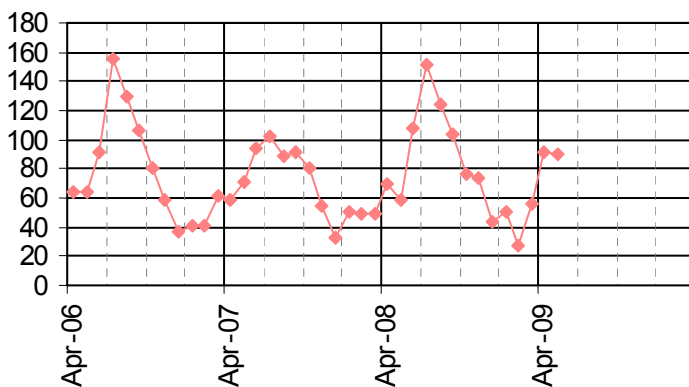
The decreasing trend evident over the course of 2008/9 has been reversed over the last three months. The number of domestic burglaries has risen steeply since February from 60 in that month to over 120 in May.

Vehicle Crime, April 2006 to May 2009



In the month of April the number of vehicle crimes was at its highest level for more than two years and remains relatively high in May.

Theft of a Pedal Cycle, April 2006 to May 2009

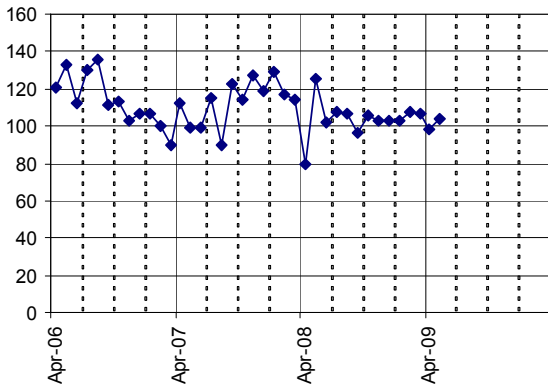


Pedal cycle theft shows a strong seasonal effect related to the months when more people cycle. However, numbers in the first two months of 2008/9 are about a third higher than in the same months in previous years.



Police crime data presented in this report only reflect those crimes which are reported and recorded. There is likely to be a level of underreporting in many crime types. However, domestic violence and the hate crimes on this page are likely to be particularly liable to underreporting.

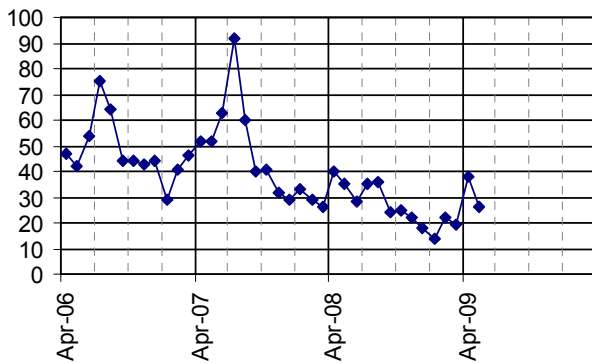
Domestic Violence Crimes, April 2006 to May 2009



The number of domestic violence crimes remains between about 95 and 110 per month over the last 12 months.

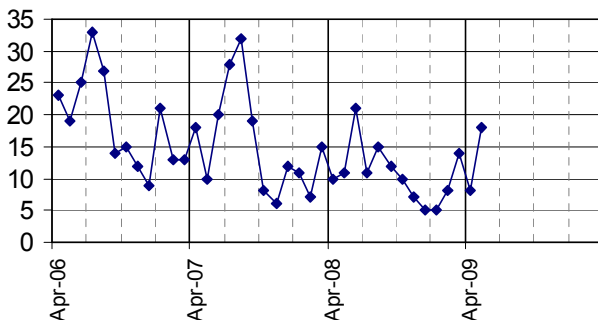
*Please note that crimes and incidents data would normally be reported here. However, there was a problem with the reliability of DV incident data so these have been omitted from the current report.*

Racist and Religiously Motivated Crimes and Incidents, April 2006 to May 2009



The declining trend in racist and religiously motivated crimes and incidents, typically modulated by more incidents during the summer months, appears to be continuing.

LGBT Hate Crimes and Incidents, April 2006 to May 2009



A seasonal pattern continues to be evident in the data on homophobic, biphobic and transphobic crimes and incidents, with higher levels tending to occur in the summer.

## **Appendix.**

### **A note on how Brighton & Hove's performance is compared with other CDRPs.**

For the purposes of assessing the relative performance of Brighton & Hove CDRP (Crime and Disorder Reduction Partnership) in reducing crime, our performance is compared (benchmarked) with the performance of 14 other 'Most Similar' CDRPs. The Home Office have created these groupings to help provide information on how CDRPs, police forces, etc. are performing.

CDRPs within a 'Most Similar' grouping have been assessed as having similar characteristics in terms of 24 socio-demographic and geographic variables which are strongly linked to increased levels of crime, fear of crime, or incidents.

We are able to compare our crime trends and current performance with our Most Similar CDRPs. The data presented on page 1 of this report (see right-most column of the table) shows our ranked position within this group of 15 CDRPs. For example, a ranking of 1 indicates that a CDRP is performing best within the group, and a ranking of 8 shows that the CDRP is in the middle ranked position.

### **Other Members of Brighton & Hove's Most Similar CDRP Group (from Apr 2008) area as follows:**

LB Barnet  
Bournemouth  
Cheltenham  
LB Croydon  
LB Ealing  
Eastbourne  
LB Hackney  
LB Hammersmith & Fulham  
LB Kensington & Chelsea  
LB Lambeth  
Reading  
LB Southwark  
LB Wandsworth  
Wycombe

**Subject:** Closure of Premises Protocols Associated with Persistent Disorder or Nuisance and Class A Drug Premises

**Date of Meeting:** 6<sup>th</sup> July 2009

**Report of:** Director of Environment

**Contact Officer:** Name: Jenny Knight, Anti Social Behaviour Co-ordinator Tel: 292607

E-mail: Jenny.knight@brighton-hove.gov.uk

### FOR GENERAL RELEASE

There are no confidentiality issues arising from this report.

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To inform the Community Safety Forum of the updated protocol for the Closure of Class A Premises and the new protocol for the Closure of Premises Associated with Persistent Disorder and Nuisance.

#### 2. RECOMMENDATIONS:

- 2.1 That the Community Safety Forum indicate it's view on the protocols for use within Brighton & Hove and note that the protocols are to be submitted to cabinet for consideration and approval on the 9<sup>th</sup> July 2009.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The closure of class A premises legislation was introduced in the Anti Social Behaviour Act 2003 and came into effect on the 20<sup>th</sup> January 2004. The legislation allows the Police in consultation with the Local Authority to close a property for a period of three months where there can be shown to have been the use or supply of class A drugs in conjunction with serious nuisance.
- 3.2 In 2004 the Anti Social Behaviour Co-ordinator within the Partnership Community Safety Team developed a city wide protocol for the use of the class A closure legislation. The decision has been made to refresh this protocol following developments in the way the city tackles anti social behaviour over the past 5 years.
- 3.3. In 2008 part 1a of the anti social behaviour act was amended by part 8, section 118 of the Criminal Justice and Immigration Act 2008. This

legislation introduced the power to close premises associated with persistent disorder or nuisance. This allows the police or local authority in consultation with one another to apply to court to close a property for three months where there is evidence of 'significant and persistent disorder or persistent serious nuisance to members of the public'

- 3.4 Following the introduction of this legislation a city wide protocol has been developed to provide a route for agencies to consult on and apply for orders.
- 3.5 The City of Brighton & Hove has as yet not needed to apply for a Closure Order for persistent nuisance and disorder however Sussex Police with the support of Brighton & Hove City Council have successfully applied for two class A closure orders in 2008/09.

### **3.6 The Aims of the Protocols**

There are two main aims of these protocols. The first is to enable Brighton & Hove City Council and its partner agencies to act rapidly to tackle issues of anti social behaviour and class A drug use and to prevent a deterioration in the quality of life for local residents and communities. The second is to create a city wide mechanism for consultation which enables all relevant agencies to input into the discussion around closure and ensures that the powers are used consistently across the city.

### **3.7 The Contents of the Protocols**

The protocols follow the guidance laid down by the Government for the use of the legislation and allow agencies in Brighton & Hove to determine whether a case is appropriate for a closure order, whether it meets the evidential requirements and explains how to go about obtaining an order.

The protocols contain the following

- i) Contact details of all the relevant partner agencies.
- ii) Details of the relevant legislation and details of who has the power to enact a closure order.
- iii) The evidential requirements for obtaining an order.
- iv) The process for dealing with vulnerable occupants of the property and the steps that need to be taken to ensure that the relevant agencies for example social services or mental health services are involved and that the individual/s will be adequately accommodated if a closure order goes ahead.
- v) The process of referring a case into the monthly multi agency planning meeting for consultation and a decision on Closure or other forms of action.
- vi) The formal signed consultation procedure between Sussex Police and Brighton & Hove City Council.
- vii) The legal and court process including the service of notices, referral to court and the court hearing.
- viii) The post hearing tasks including removing people from the property and securing it.

- ix) The process of compulsory notification to partner agencies after an order has been awarded by the court.

### **3.8 The multi agency planning meeting**

The process for consultation for closure orders is through a monthly multi agency planning meeting. This forum exists to act as vehicle for consultation on anti social behaviour orders and the group is to extend the meeting to include closure orders. The group is chaired by the Anti Social Behaviour Co-ordinator and the following agencies are represented at each meeting, the Youth Offending Team, Council Housing, a representative for the Social Landlords Forum, the Targeted Youth Support Service, Sussex Police and the Partnership Community Safety Team. Other agencies such as the Probation Service and Social Services attend where relevant.

In order to comply with the legislation the agency applying for the closure order needs to demonstrate that they have considered the following issues in conjunction with partner agencies:

- i) The vulnerability of the Individual/s residing in the property and their housing needs while the property is closed.
- ii) The implications on the resources of other services of the closure of the property i.e housing, social services.
- iii) That all other avenues to resolve the issue been attempted or considered prior to the application for a closure order.
- iv) That formal consultation between the police and the local authority has taken place.

As well as complying with the legislation it is good practice for the multi agency planning meeting to develop a strategy to deal with the reopening of a property and to address the behaviour of those individuals who were resident. This will help to ensure that the community does not face the same problems again and that the action being taken is not just responsible for moving the problem around the city.

### **3.9 Delegated Authority**

The legislation requires that prior to a closure order being applied for the local authority and a representative of Sussex Police must sign a statement to confirm that they have consulted on the application for the closure order.

The protocol recommends that the following council employees have the delegated authority to act as a signatory to the consultation.

- i) The Anti Social Behaviour Co-ordinator
- ii) The Head of Community Safety
- iii) Assistant Director of Public Safety
- iv) Director of Environment or Adult Social Care & Housing
- v) Assistant Director of Housing
- vi) Assistant Director of Housing Management

## **4. CONSULTATION**

- 4.1 The protocols were issued to the following partner agencies for consultation: Sussex Police, Brighton & Hove City Council Homeless Services, Brighton & Hove City Council Housing Management, Registered Social Landlords through the RSL forum, Youth Offending Team, Children & Young Peoples Trust, Community Mental Health Team, Brighton & Hove City Council Adult Social Care, Brighton & Hove City Council Learning Disability Team and Crime Reduction Initiatives.
- 4.2 These protocols were presented to and approved by the Operational Crime and Disorder Reduction Partnership Meeting on the 1<sup>st</sup> May 2009.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 There are no direct financial implications arising from the recommendations contained within this report. The gaining of a Closure Order requires use of internal staff time mainly in Legal Services and the payment of a small court fee. If the council is asked to pursue a Closure Order on behalf of an external agency (e.g. Housing Association), any cost incurred by the council would be recharged accordingly.

*Finance Officer Consulted: Patrick Rice                      Date: 9 June 2009*

### Legal Implications:

- 5.2 All statutory requirements are met by the protocols and currently published home office guidelines are incorporated within the protocol. The current protocol should protect the local authority when using these powers.
- 5.3 The protocols have implications arising from the Human Rights Act 1998 specifically the right to enjoyment of ones own home and the right to privacy contained in convention right article 8 and article 1 of the 1<sup>st</sup> protocol. However each case will be considered on its own merits and there will be consideration of the human rights act prior to any decision being made. The individual is protected by the requirement for a court hearing and council officers and the court will balance the needs of the person concerned with the needs of the wider community. An order will only be made if it is considered proportionate.

*Lawyer Consulted: Simon Court    Date:05/06/2009*

### Equalities Implications:

- 5.4 No equalities impact statement has been carried out however it is the duty of the multi agency planning meeting to ensure that an application will not be made against any individual or individuals simply because they are

different from their neighbours or engage in activities which are different, for example they belong to a different religion or race.

The Planning meeting must be satisfied that the agency presenting the case has investigated the complaints about anti social behaviour and that these complaints are not motivated by discrimination/victimisation on the grounds of, for example, race, disability, sex, sexual orientation, age, religion or creed.

#### Sustainability Implications:

- 5.5 These protocols will bring positive benefits to the community. Premises where closure orders are used are often associated with forms of nuisance such as litter, fly tipping and general disrepair which can be dealt with while the property is empty. The use of these powers will also have an impact on the sustainability of communities by tackling and reducing anti social behaviour which will reduce environmental degeneration.

#### Crime & Disorder Implications:

- 5.6 This protocol directly impacts on the tackling of crime and disorder within Brighton & Hove and these issues are addressed throughout the report.

#### Risk & Opportunity Management Implications:

- 5.7 All risks and opportunities are carefully considered at the multi agency planning meeting and prior to decisions to apply the protocols.

#### Corporate / Citywide Implications:

- 5.8 There are corporate and city wide implications to the use of Closure orders. However these will be managed through the process of consultation with partner agencies which will ensure that the powers are used proportionately and to protect the wider community.

### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The development of city wide protocols complies with government good practice and therefore no alternative options are being proposed.

### **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To provide information on the protocols governing the use of closure orders within Brighton & Hove
- 7.2 To inform the Community Safety Forum of the new powers to close premises associated with serious and persistent nuisance and disorder.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Closure of Class A Premises Protocol
2. Closure of Premises Associated with Persistent Disorder or Nuisance Protocol

### **Background Documents**

1. Home Office Part 1A Anti Social Behaviour Act 2003: Notes of Guidance: Closure Orders: Premises Associated with Persistent Disorder or Nuisance.
2. Anti Social Behaviour Act 2003: Notes of Guidance Part 1, sections 1-11: Closure of premises used in connection with the production, supply or use of Class A drugs and associated with the occurrence of disorder or serious nuisance.

Both documents are available at [www.respect.gov.uk](http://www.respect.gov.uk)





**CLOSURE OF  
PREMISES  
ASSOCIATED WITH  
PERSISTENT  
DISORDER OR  
NUISANCE  
Brighton & Hove**

**PROTOCOL  
March 2009**

## SECTIONS

### 1. THE PURPOSE OF THIS DOCUMENT

- 1.1 Purpose
- 1.2 Aims & Objectives
- 1.3 Partnership responsibilities

### 2. WHAT IS A CLOSURE ORDER

- 2.1 Definition of Premises
- 2.2 Definition of 'significant and persistent disorder or persistent serious nuisance'
- 2.3 The legislation
- 2.4 The decision to issue a Closure Notice
- 2.5 Evidence of disorder or serious nuisance
- 2.6 Who has the legislative power to serve a Closure Notice
- 2.7 Evidence requirements
- 2.8 Practical arrangements

### 3. VULNERABLE OCCUPANTS

- 3.1 Identifying 'vulnerability'
- 3.2 Vulnerability guidelines

### 4. THE PROTOCOL IN ACTION

- 4.1 How to get started
- 4.2 The Planning Meeting objectives
- 4.3 Consultation

### 5. THE LEGAL & COURT PROCESSES

- 5.1 The purpose of the closure notice
- 5.2 Requirements for the serving of the notice
- 5.3 The effect of the notice
- 5.4 The contents of the notice
- 5.5 Serving the notice
- 5.6 Dealing with those in the premises
- 5.7 The Magistrates hearing
- 5.8 Potential arguments in defence of closure
- 5.9 Extensions
- 5.10 Appeals
- 5.11 Discharge of a Closure Order

### 6. POST HEARING TASKS

- 6.1 The effect of the Closure Order
- 6.2 Enforcing a Closure Order
- 6.3 Dealing with those still occupying the premises
- 6.4 Immediate COMPULSORY notification to partners
- 6.5 Securing the property
- 6.6 Breach of a Closure Order

### 7. APPENDICES

- Appendix A. Certain sensitive types of premises in which it may not be suitable to issue a Closure Notice
- Appendix B. Senior Officer Checklist
- Appendix C. Procedure for pursuing a premises Closure Order

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# 1. THE PURPOSE OF THIS DOCUMENT

## 1.1 Purpose:

The purpose of this partnership protocol is to;

- Provide clear and agreed guidance for key partner agency staff when considering use of the powers to close premises associated with persistent disorder or nuisance.
- Identify the key issues and stages in the 'Closure' process.

## 1.2 Aims and Objectives:

The aims and objectives of this partnership protocol are to;

- Achieve consistency in practice to ensure a rapid response from the relevant partner agencies and to set out clear procedures in relation to 'vulnerable' tenants/occupants.
- Enable partner agencies to act rapidly to prevent deterioration in quality of life for local residents and communities.

## 1.3 Partnership Responsibilities:

Key partners as identified at the beginning of this document, have between them a range of 'statutory' duties and functions to enable them to effectively tackle the problem of anti social behaviour in residential premises. In addition there are partners who may not be under a statutory duty, but who need to be consulted when these agencies are considering applying for a premises closure order.

The statutory duties as summarised;

- Prevention of crime & disorder
- Prevention of anti-social behaviour
- Homelessness duty
- Protection from nuisance and harassment
- Child protection and 'Child in need' duty
- Protection of vulnerable clients duty
- Protection of environment in a safe and clean city

## **2. WHAT IS A CLOSURE ORDER**

### **2.1 Definition of Premises:**

For the purposes of this Partnership Protocol, a 'premises associated with persistent disorder or persistent serious nuisance' has been defined as follows:

Any land or other place (whether enclosed or not); and any outbuildings that are used as part of the premises. Any of the following are therefore included:

- Houses
- Flats
- Apartments
- Sheds
- Common areas adjacent to houses / flats
- Garages
- Factories
- Shops
- Pubs
- Clubs
- Public Buildings
- Community Centres or halls
- Car parks

The premises can also be a subsection of a larger building such as a flat within a block or a room within a hostel or bed and breakfast.

The powers do cover licensed premises however it may be more appropriate for these premises to be dealt with under current licensing legislation.

### **2.2 Definition of 'Significant and Persistent Disorder or Persistent Serious Nuisance:**

There is no legal definition of what constitutes significant and persistent disorder or persistent serious nuisance and it is for the courts to define these terms. However Home Office guidance provides a list of the types of problems that may constitute significant and persistent disorder or persistent serious nuisance; this list should be taken by partner agencies as a guide to the level of nuisance that is considered to be serious in the context of the legislation.

- Intimidating and threatening behaviour towards residents.
- A significant increase in crime in the immediate area surrounding the premises.
- The discharge of a firearm in, or adjacent to, the premises
- Significant problems with prostitution or sexual acts being committed in the vicinity of the premises
- Violent offences and crime being committed on or in the vicinity of the premises.
- Serious disorder associated with alcohol abuse, for example in and around drinking dens.

- High number of people entering and leaving the premises at all times of the day or night and the resultant disruption they cause to residents.
- Noise (constant / intrusive) – excessive noise at all hours associated with visitors to the property.

### **2.3 The Legislation – Part 1A of the Anti Social Behaviour Act 2003 as amended by Part 8, Section 118 of the Criminal Justice and Immigration Act 2008:**

The issuing of a closure notice can be authorised by a senior police officer of the rank of superintendent or above or the local authority. In order to assess the need for the notice they must have reasonable grounds for believing that

- a.) **At any time in the preceding three months a person has engaged in anti social behaviour in the premises;**

and

- b.) **that the use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public.**

The Police or local authority may authorise the issue of a closure notice providing they are satisfied that;

- a.) **The appropriate chief officer of police or the local authority for the area in which the premises is situated has been consulted**

*and*

- b.) ***that reasonable steps have been taken to establish the identity of any person who lives on the premises, or has control of, or responsibility for, or an interest in the premises.***

### **2.4 The decision to issue a Closure Notice**

The police or local authority ‘**should only authorise a Closure Notice once all other avenues have been pursued and have failed to stop the disorder in the premises**’. Therefore the authorising officer will need to ensure that the following has been taken into account:

- whether the proposed actions will have the intended impact on the problem at hand
- the suitability of the powers with all their implications
- the evidence about the level of disorder, nuisance and anti social behaviour associated with the premises
- how this action is to be followed up, ensuring that the premises do not become reoccupied for similar purposes, and how the closure can be followed up as part of the anti social behaviour strategy for the area
- the views of the relevant local authority or police



- any other powers – such as anti social behaviour orders (ASBO's) that may be more suitable and achieve the same result, without the need for the implications that the closure power contains
- the availability of other powers and supportive interventions, that can be used alongside the closure power to support the overall aim of reduction of nuisance.

The authorising officer must ensure that all partner agencies have been involved in dealing with the underlying anti social behaviour from the beginning rather than just taking the approach of tackling the property itself. These agencies include among others the police, council housing management and RSL's, social services, youth offending team, education and mental health services.

The authorising officer is required to demonstrate that all other anti social behaviour tools and powers have been considered before making the decision to apply for a closure order this includes mediation, referrals to support services such as the family intervention project, acceptable behaviour contracts, parenting orders, ASBO's, tenancy enforcement, injunctions etc.

## **2.5 Evidence of disorder or serious nuisance:**

Serious nuisance is often demonstrated by accounts from neighbours and/or professional witnesses of the distress caused to the community by the activities of the premises. The accounts should provide an objective basis for an assessment of the gravity of the problem. The accurate recording of events, over time, will also be very important to prove the sustained and intrusive nature of the disorder and serious nuisance.

Evidence of disorder or serious nuisance in statements provided by residents/occupants affected by the behaviour as well as evidence obtained from professional witnesses can be used in proceedings brought by the Police or Local Authority. The partnership agencies need to be mindful of needs of witnesses who may suffer acts of recrimination from individuals associated with the behaviour.

## **2.6 Who has the legislative power to serve Closure Notice?:**

The legislative power is with the Police and Local Authority. Upon an application by the Police or Local Authority to the Magistrates' Court a Closure Order is sought that can then be served on anyone identified as an interested party. However, in Brighton & Hove levels of partnership working are such that although the power to obtain Closure Notices is with the Police and Local Authority, other Partner agencies will play a vital role in the process.

A shared problem solving approach is a clear advantage in sharing resources, intelligence and pooling evidence to effectively tackle the problem and prevent it from re-occurring.

## **2.7 Evidence requirements:**

The evidence requirements have to meet the threshold as set down by the legislation. (see section 2.3)

The police can collect evidence of nuisance, disorder and criminal offences made in and around the premises. While the council or RSL may be in a position to provide information regarding complaints received from residents and evidence from housing officers in the form of diary sheets and tenancy file history.

In this context a partnership approach to evidence gathering needs to be clear and unambiguous from the outset and with review timescales put in place with the close involvement of a solicitor.

Likely sources of evidence;

- resident diary sheets
- letters of complaint
- Council Housing tenancy file correspondence (if applicable)
- Registered Social Landlord or Housing Association file correspondence
- Environmental Health information, evidence and attendance at premises
- Police Offender profiles
- Police arrest history at premises
- Specific offender arrest history
- Witness statements
- Record of Police incident history in and around premises
- Map indicating incidents of anti-social behaviour, offences and complaints linked to the premises address

## **2.8 Practical arrangements:**

Due to the very nature of serious anti social behaviour the community is likely to be extremely apprehensive about providing evidence to assist the 'Closure' process.

Having identified potential premises at an early stage, key local officers should agree a local strategy to tackle this and to reassure residents and the community that they are tackling the issue proactively. Partners need to be very clear with each other about potential difficulties and should agree to meet regularly and keep channels of communication open to ensure information sharing and the ability to react rapidly.

## **3. VULNERABLE OCCUPANTS**

Key consideration must be given to vulnerable status at early planning stage.

### **3.1 Identifying vulnerability:**

In Brighton & Hove there is fairly frequent incidence of anti social people becoming involved with a tenant or occupant and then over time the premises becomes associated with serious nuisance and other criminal activity. In these circumstances the original tenant/occupant effectively loses control of

their home and becomes a victim of circumstance. The perpetrators target vulnerable individuals they can manipulate through intimidation, threats of violence and actual violence. In a small number of cases there may be children living on such premises. It is essential that the Police or the Local Authority advise Social Services and other relevant agencies immediately if children or vulnerable adults are identified in the property.

- Vulnerable individuals in this circumstance are as much a victim as the wider community and if they meet certain criteria they should be treated as such.
- It is essential that robust contingency planning is put into place to ensure that homelessness is prevented for anyone who is vulnerable or has children.
- Criteria are set out below as a guide, but vulnerability should not be decided on the basis of how many criteria they meet it should be a multi agency decision based on individual circumstances.

### **3.2 Vulnerability guidelines:**

These categories should be used to guide decision building process and establishing a profile of the case and vulnerable status.

Look not only at current status but to try to ascertain historical circumstance.

- Child Protection concerns, Duty & Assessment Team (D&AT) involvement
- Abusive relationship
- Domestic Violence
- Learning difficulties
- Physical disability
- Mental health concerns
- High support needs through floating support, Special Needs Housing Officer, key-worker or other
- Tenancy history (priority transfer history)
- Substance misuse

The above criteria is not an exhaustive list, but it can be used as a starting point when making the vulnerability assessment.

- A comprehensive and objective decision at the earliest stage will have a decisive impact on how to proceed with the case.

For example, it may become clear that the occupant has lost control of the premises and is regularly confronted with violence within the home. A priority transfer may be appropriate. Where a tenant is excluded from their secure tenancy they should be referred to the Local Authority Homeless Persons Unit where they will be assessed to establish whether or not there is a statutory duty for re-housing assistance. The Police and Local Authority officers involved in the process will need to immediately refer information to the Homeless Persons Unit to assist them in assessing the individual's status.

Where the Police have issued a closure notice in respect of privately owned/managed accommodation the tenant/occupant concerned should be referred to the Local Authority for appropriate advice and or assistance in respect of services that may be available to them including a referral to the Authority Homeless Persons Unit.

If in doubt, discuss with your line manager for guidance.

If the premises does not to the best of your knowledge involve any vulnerable clients, record and substantiate this decision and proceed. The Authority should consider issuing possession proceedings to recover the property following a closure notice in cases where the tenant is not vulnerable and is involved in the behaviour.

In cases involving a vulnerable tenant other action can be taken alongside a closure order in order to prevent further problems examples of this are:

- Assisting the tenant to surrender the original tenancy and be re-housed in alternative accommodation or supported accommodation.
- Tenant to sign an acceptable behaviour contract in new accommodation or on return to closed accommodation.
- A care / support package to be put in place by relevant service providers as soon as a new tenancy commences or they return to the closed property.

## **4. THE PROTOCOL IN ACTION**

### **4.1 How to get started:**

Prior to the protocol being put in place the lead officer in the case i.e. anti social behaviour (ASB) caseworker, ASB Housing Officer, RSL Housing Officer or Police Officer will have, in conjunction, with partner agencies attempted a series of interventions with the household concerned. This should include where appropriate referrals to support services and engagement with partner agencies such as social services, mental health services, substance misuse services, youth offending team, integrated youth support services and domestic abuse services. Interventions such as home visits, acceptable behaviour contracts, parenting contracts, warning letters, injunctions and ASBO's should have been considered or attempted.

If these interventions have been unsuccessful and serious and persistent nuisance continues and there is a build up of information provided by a wide range of sources then the protocol will be instigated.

Primarily, those providing the supporting intelligence will be one or more of the following:

- Sussex Police
- Registered Social Landlord
- Brighton & Hove Environmental Health Manager
- Council Housing Anti Social Behaviour Housing Officer

- Partnership Community Safety Team, Anti-social Behaviour Team Caseworker
- Social Work Manager

Following the decision by the lead officers that a Closure order is necessary the case will be referred to the ASB Co-ordinator.

Following the referral the ASB Co-ordinator will do the following

- Identify the relevant social landlord (with the assistance of the anti social behaviour team caseworkers)
- Contact the appropriate District Police Inspector and Housing Manager to discuss whether the Closure Protocol should be implemented.
- If the Closure Protocol is agreed the ASB Co-ordinator and District Inspector will dependent on timescales either add the property to the agenda for the monthly ASB Multi Agency Planning Meeting or call a separate planning meeting.
- Request an offender profile of any known residents and a profile of the disorder associated with the property from the ASB Co-ordinator for Sussex Police.
- Invite all relevant parties to the meeting and request that they bring the evidence that they have accumulated of disorder and details of the attempted interventions.

## **4.2 The Planning Meeting Objectives:**

The Planning Meeting is an inter-agency meeting called to review whether a tenant should be targeted for intervention under the Protocol. The meeting will decide whether the tenant will be considered as 'Vulnerable' or 'Non-Vulnerable' for the purpose of the Protocol. The assessment will be based upon the information available to the partnership agencies. Normally, each agency should be prepared at the meeting to disclose the information, which would be necessary to take an informed decision. The Planning Meeting decision is not a fixed decision and the Protocol will allow this decision to be changed as the process develops.

The Planning Meeting will be an inter-agency meeting chaired by the ASB Co-ordinator or Police District Inspector. The meeting will consist of the lead managers from relevant services, the ASB Team solicitor and the Caseworkers / Officers directly working with the household.

The planning meeting should:

- Consider whether the closure is appropriate given the nature of the problem identified
- Consider whether there are alternative or more appropriate tools and powers which could be used to alleviate the nuisance

- Consider whether all alternative tools, powers and support services have been attempted or considered.
- Agree long term strategies for the resolution of the nuisance
- Look at how the proposed closure will effect vulnerable people
- Agree a strategy for protecting vulnerable people and preventing them from homelessness
- Obtain intelligence on property ownership / management where the property is not social housing.
- Ensure that the allocated caseworker informs those who may be subject to the closure order that it is being considered and the possible consequences for them.
- Provide advanced notification to homeless services or social services of the proposed action as it may place additional demands on their service.
- Agree the notification, which is required in the legislation, of the Chief Executive of Brighton & Hove City Council, relevant local authority department directors and local councillors who lead on relevant issues i.e. anti social behaviour, housing, children and young people.

If the decision of the meeting is that a closure order will not be applied for then the meeting will agree further actions for example:

- Where there is not enough evidence to proceed with a closure order an agreement will be made about how much evidence is required and who will monitor the situation in the future.
- Where the meeting decides that a closure order is not appropriate other interventions will be agreed within the meeting.

### **4.3 Consultation:**

Section 11a 2-3 of the Anti Social Behaviour Act requires consultation between a police representative of superintendent level or above and one of the following local authority staff

- Anti Social Behaviour Co-ordinator
- Head of Community Safety
- Assistant Director of Public Safety
- Director of Environment or Adult Social Care & Housing
- Assistant Director of Housing
- Assistant Director of Housing Management

This consultation has to be documented on the certificate of consultation for closure of premises and should be undertaken prior to contact being made with the court. The signed certificate of consultation should be supplied to the solicitor handing the case.

## **5. THE LEGAL & COURT PROCESSES**

### **5.1 The purpose of the Closure Notice:**

The Closure Notice alerts those using the property including residents, the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order. It sends a clear message to the community that action is being taken against the premises, and informs those involved in nuisance that their activities will no longer be tolerated. It gives notice that impending closure of the premises is being sought and details of what this entails. The persons in these premises who are involved in the nuisance will have been previously warned of impending action, in an attempt to reform their behaviour and may have been the subject of other law enforcement activity before any notice is served. However it is still essential that when the Closure Notice is served persons in or associated with the premises understand its meaning and that even at this point they have a chance to reform the behaviour associated with the premises. The notice is intended to encourage those who are not habitually resident to leave, or they may be arrested.

## **5.2 Requirements for the serving of the Notice:**

There is a requirement in the Act for the Police and Local Authority to take reasonable steps to identify those with an interest, control or responsibility or who live in the premises before the notice can be authorised.

The Police and Local Authority are not required to ensure that all such persons, who may have an interest in the premises and who may suffer financial loss as a result of the closure, are notified prior to the Notice being issued. The Act requires 'reasonable steps' to have been taken to identify such people. It may be the case that all such persons are difficult to trace and the delay required to identify them would remove the benefits of the Power.

A closure notice once served must be in court within 48 hours therefore prior to the notice being served the Solicitor will need to contact the court to establish a date and time for the hearing.

Following authorisation the Closure Notice must be served on any such person who is identifiable at the property or who appears to have an interest or to be affected by potential closure. These persons should be easily identified by immediate enquiries to the tenant or those resident, or neighbours; or through local authority records.

The fixing of the Notice to the building, to each normal means of access to it and any outbuildings are also intended to ensure the closure is publicised to anyone with an interest.

## **5.3 The effect of the Notice:**

It should be remembered that the Closure Notice in itself may on its own achieve the intended outcome of stopping the disorder and nuisance associated with the premises. For the initial 48-hour period before the Court considers the application it may provide immediate relief to the community.

It also creates offences, backed with the power of arrest, for any persons who do not habitually reside in the property who enter or remain in the premises. The intention is to encourage all those not properly resident to leave at this

point and relief to be obtained during the notice period. However it allows for the tenant to stay whilst they arrange alternative accommodation.

Some persons occupying the property may need alternative accommodation and may need to seek housing advice. These enquiries need to be directed to the Housing Advice Centre at Bartholomew House, Brighton and the Housing Options Duty Manager should be informed that the notice has been served and that these people will be approaching them for assistance.

#### **5.4 The contents of the Notice:**

The Closure Notice must contain the following information:

- A Closure Order is being sought and the address it is being sought on
- Only the owner or persons who are habitually resident at the premises may now enter the building, but no one else
- The date, time and place at which the Closure Order will be considered
- An explanation of what will happen should a Closure Order be granted- in particular that there will be no further entry to the premises and it will be totally sealed. If the premises are residential then the occupier will be forced to find alternate accommodation.
- An explanation that any person who enters the premises who is not the owner or a person who is habitually resident there commits an offence and can be arrested.
- Information on relevant support and advice providers who will be able to assist in relation to housing and legal matters. This will depend on the particular arrangements in place for the area, and should be agreed with the relevant local authority as part of the consultation. Advice providers are likely to be the Housing Advice Centre or point of contact for applications for homeless persons, the Citizens Advice Bureaux and the Local Law Centre. Information on help with drug treatment options and leaving sex work exit options is also desirable.

#### **5.5 Serving the Notice:**

The notice must be served on all those with an interest in the property, including residents (who may not be tenants but who live there nonetheless), the tenant and their dependants at the property; the owner or their representative; and persons affected through access to their property.

Identifying these persons need not delay the service of the Notice, for instance the electoral register or council tax records held by the local authority should identify the owner or occupier. If this simply identifies a letting agent, serving notice on them is acceptable.

Service of the Closure Notice can be effected by the affixing of the Notice to the premises, but effort should also be made to give a copy of the Notice to any interested persons. Posting a notice is not desirable, due to the speed and effects of the Notice. However if the owner or letting agent identified is not local posting the Notice may be considered sufficient as the only practicable means.



The closure notice may be served by a police officer or a representative of the local authority.

Entry to the property is not required to serve the Notice; it can be affixed outside or handed to the residents at the door with clear explanation of its nature and effect

It will be for the police and the relevant local authority to decide the level of joint working on the service of the Closure Notice. In some areas, where it is considered safe to do so, it may be appropriate for the police to be accompanied by the relevant local authority or RSL representative.

## **5.6 Dealing with those in the premises:**

Once served, those at a premises affected by the Closure Notice may well choose to leave voluntarily. Those who habitually reside there should be advised to seek alternative accommodation. If they have failed to do so themselves, they should be referred to the Closure Notice or the advice/support providers referred to in the Closure Notice, regarding help with accommodation, other support needs, and obtaining legal assistance. It may still be possible for those resident to change the way the premises are used. However it is an arrestable offence for a person who does not normally live at the premises or is not the owner to continue to reside at or enter the property during the Closure Notice period. If convicted the individual could be liable to imprisonment or a £5000 fine.

The extent to which this power of arrest is used is the decision of the district inspector based on an assessment of the likelihood of continued disorder or serious nuisance. The application of this power is useful if by it, those continuing to cause persistent nuisance, are removed from the house. If arrest serves this purpose it should be used. Use of the power may be appropriate as a tool in acting against persons identified through service of notice where intelligence suggests they have engagement in other criminal matters.

It is also an arrestable offence to obstruct a police officer serving the Closure Notice.

## **5.7 The Magistrates Hearing:**

Prior to the service of the notice the ASB Solicitor will notify the court of the intention to apply for a closure order and agree with them the time date and location of the hearing which will then be included on the notice. Once the notice has been served the ASB Solicitor will issue an application to the magistrates court for a closure order.

Prior to the hearing the police and local authority in conjunction with the ASB Solicitor should ensure that the evidence to be presented is in good order and that support for community witnesses at the court is in place to enable them to give evidence.

At the court hearing the evidence should be presented by the police or a local authority employees and supported if appropriate by evidence from victims and witnesses.

To issue a closure order the court must be satisfied that:

- A person has engaged in anti social behaviour on the premises in respect of which the closure notice was issued
- The use of the premises is associated with significant and persistent disorder or persistent serious nuisance to members of the public; and
- An order is necessary to prevent further such disorder or nuisance for the period specified in the order.

The court is asked to decide whether a closure order is necessary to prevent further serious disorder or nuisance and therefore it may wish to consider whether alternative methods are more appropriate and what other action might have been attempted. For this reason it is important that a history of the action that has been taken and considered against the premises and the residents is provided to the court.

The court may also, in determining whether to make a closure order have regard to

- The ability of any person who habitually resides in the premises to find alternative accommodation; and
- Any vulnerability of that person

The court is also asked to consider the implications on the tenant of the continued accruing of rent on the closed property. Dependent on their circumstances they may find themselves being responsible for rent on two properties. It is therefore important that the Police or Local Authority has liaised with housing and housing benefits officers on the options available for the tenant and the advice they should be given.

The court is not asked to decide on the relative merits of applying the power to certain types of premises rather than others. The court is simply asked to decide whether the use of the power in the specific circumstances involved is necessary to prevent the occurrence of the behaviour.

## **5.8 Potential arguments in defence of closure:**

The owner of the premises, a person who has control or responsibility for the premises and any other person who has an interest in the premises may contest the application to make an order. The court can defer the making of the Order by adjournment for 14 days to allow those persons to prepare their case.

It is not the intention that all cases should be routinely adjourned. This would defeat the object of the power, which is speed. The court must decide whether an adjournment is needed. Anyone seeking an adjournment must demonstrate reasonable grounds why it is needed.

The court will wish to hear why the order should not be made. The Act does not specify what reasons there should be for not making the order. This will be for the court to decide in each case. Possible reasons include:

- The landlord, owner or tenant has just been appraised of the situation, and can demonstrate that effective action is being taken to deal with it; or -

- There is evidence that contradicts the evidence presented by the police, or evidence that cannot be presented at this time but which will be presented subsequently, thus presenting a case for adjournment

The court operates on a civil rather than a criminal standard of proof (i.e. balance of probabilities).

The court can of course decide that notwithstanding the owner or landlords contention that they will address the problem, that a closure order should still be made whilst they attempt to do so. If they can then subsequently demonstrate sooner than the specified order period that the problem has been successfully addressed then an application can be made for the order to be discharged.

Hence whilst the court has nominally three options, denial of the application, adjournment or closure. In practice the ability to vary the length of the order gives the court flexibility to deal with different circumstances where a shorter order may be appropriate, bring immediate relief whilst the landlord and police deal with the problem, but not leading to extended and costly closure.

The maximum length of an order is 3 months with possibility of further extension to not more than 6. The length of the order should reflect the circumstances above and the desire to bring the property back into management as quickly as possible.

## **5.9 Extensions:**

The powers to extend a closure order for a further 3 months are expected to be used only on rare occasions. There are many disadvantages to leaving properties empty for extended periods and only when there are real concerns that the property will return to its former use should an extension be made.

If an extension is considered necessary then the lead officer needs to refer this matter to the ASB Multi Agency Planning Meeting so that the process of consultation can take place again. The procedure for the authorisation of the extension is the same as with the application and the tests are the same as for the original closure.

The application for an extension may be made at any time prior to the date on which the original order would have expired.

## **5.10 Appeals:**

The act entitles any persons on whom a Closure Notice was served, as well as any person who has an interest in the premises but on whom the closure notice was not served, to appeal against the making or extension of a closure order.

An appeal may also be made by the Police or Local Authority against the refusal to grant or extend an order.

An appeal against the order or decision not to grant it must be brought to the Crown Court within 21 days, starting on the day on which the order or decision was made.

### **5.11 Discharge of a Closure Order:**

It is important that the property remains empty for as short a time as possible therefore if the nuisance has been addressed satisfactorily before the end date of the closure order, for example where a tenant has surrendered their tenancy, an application should be made to the court to discharge the order. The court will wish to be reassured that the same pattern of behaviour will not reoccur and where a vulnerable person is due to return to the property the court may want to see that an adequate level of support is in place.

Those with a legal right to occupy (or those connected with) the premises or the owner may seek the discharge of the order themselves however the court should give careful consideration to the likelihood of the original problems returning. If the court is satisfied that the owner or landlord is capable and willing to get the problem under control then the order should be discharged.

## **6. POST HEARING TASKS**

### **6.1 The effect of the Closure Order:**

The closure order gives a power to close a property completely and remove access by any persons, even those with rights of abode or ownership, except where they are allowed to enter the property under the supervision or direction or permission of the police or the court. The order allows for a property to be sealed, closed, and removed from public use for the period of the order. The Closure Order comes into force immediately the court makes the order.

Breach of the Closure Order is an offence and persons can be arrested if they break it.

### **6.2 Enforcing a Closure Order:**

As soon as a Closure Order is granted by the courts it should be enforced. This means the premises in question can be cleared of all persons present including residents and those with an interest in the property who may have remained after the service of the Closure Notice.

The police can use reasonable force to enter and seal a property. This is to allow removal of defences that are often built into such premises and to seal the premises with the required temporary building work or shutters.

It may be that the service of the Notice did not involve entering the premises. The process of entering to enforce the Order should be treated with extreme caution. Whilst in many cases the occupants will already have left, in others

they may be resistant to leaving. Therefore the operation should be undertaken following a risk assessment. Authorised persons such as local authority workers, maintenance staff, utility persons or Housing Officers should not be present until any safety issues have been addressed and the property cleared.

### **6.3 Dealing with those still occupying the premises:**

Those found contravening the Closure Order can be arrested if officers on the scene feel it is appropriate on the basis of the evidence available. Those inside or residing are likely to fall into these groups:

- The tenant/owner who may be involved in serious anti social behaviour but who may also be a vulnerable person, who may have social care and housing needs, related to substance misuse, mental health, age or some other cause
- Dependents of the tenant/owner, including children, all of whom will have housing need, and some of whom may have welfare needs that require action and support from the local authority.
- Residents who happen to be there, some of whom may have nowhere to go and may have particular health needs.

These are only examples of persons likely to be found. The only persons who are able to enter the premises following the Closure Order are police officers or persons authorised by the chief police officer or the local authority for statutory purposes i.e. maintenance or those persons granted access by the court.

### **6.4 Immediate COMPULSORY notification to partners:**

Once the Closure Order has been served as described above, telephone or e-mail notification should be made to key partners by the lead officer (i.e. ASB Caseworker, ASB Housing Officer, Police Officer) to the following;

- **Children, Families & Schools-Duty & Assessment Team where children are directly affected by the Closure Order.**
- **Homelessness Team and Housing Advice Centre.**
- **Local Council Housing Office.**
- **Emergency boarding up service to make the property secure**
- **ASB Co-ordinator**
- **Other agencies where appropriate i.e adult social services, learning disability team, mental health team**

When notifying the above key partners, you **MUST** provide the following details:

- **Address of premises**
- **Date of Closure Order served at property**
- **Name(s) of persons resident (legally or otherwise) and who will be displaced through Closure Notice enforcement.**
- **Highlighting any Child Protection Issues**

- **Potential intelligence in relation to displacement to other addresses.**

All appropriate contact details for partner agencies are available at the beginning of this document.

## **6.5 Securing the property:**

Once the closure Order has been served and the property has no occupants within, it is necessary and appropriate that the premises are made secure as a matter of urgency.

Plans should be made to secure the property prior to the hearing so that they can be executed immediately to prevent any occupants regaining entry to the premises.

An emergency boarding or property securing company arrangement should be made. One of the best methods available in the city is Orbis Property Management who can supply and install metal screens to all windows and doors on the premises. The cost associated with this service is for initial fitting, followed by hire charge dependant on length of time in use and finally a further charge once screens are removed.

If the property is Council or RSL it is entirely reasonable that the cost should be borne by them as the landlord or owner of the premises.

If the property is privately owned or rented then it is entirely appropriate for the owner or landlord of the property to make comprehensive arrangements in partnership with the Police and key partner officers. However if the owner is unwilling to engage in this process then the Police or Local Authority will arrange for the property to be sealed. The Police or Local Authority may then apply to the magistrates court for costs against the owner for any expenses incurred in enforcing the closure order, we should notify all landlords of this position.

## **6.6 Breach of a Closure Order:**

Section 11D of the act creates offences of remaining in or entering a property that is subject to a closure notice or closure order without reasonable excuse or of obstructing a constable or authorised person carrying out certain functions under these provisions. The maximum penalty for breaching a Closure Order is a fine of £5000, imprisonment for 51 weeks or both.

## 7. APPENDICES

### **Appendix A. Certain sensitive types of premises on which it may not be suitable to issue a Closure Notice.**

The senior authorising officer must take into account the potential harm that may result in the closure of some types of properties and consider the overall social good in doing so. Whilst no specific types of premises are exempt from these powers, the appropriateness of their use in some circumstances should be considered. Ultimately it is for the court to decide whether the closure of any specific premises on a specific occasion is justified, but the authorising officer should also be mindful of the implications and whether other methods of control may be more appropriate.

These circumstances may include:

- Properties where closure cannot be effected without removing access to large numbers of persons who would be made homeless, have no right of re-housing, or would otherwise be caused harm through closure. Examples might include hostels with many residents (although not smaller units), bed and breakfast hotels and long term supported accommodation such as sheltered schemes.
- Hospitals
- Schools
- Children's homes
- Drug treatment services

The court is not asked to decide whether it is in the public good whether such premises are closed; simply whether the criteria for closure are met and the making of the order will prevent the occurrence. Hence the authorising officer making the decision must be mindful of the implications of closure when he seeks to apply the power to premises where many persons, many vulnerable, will be displaced, and which provide valuable services to many others. This risk must be balanced against the risk arising from allowing the behaviour to continue, and the other powers that may be available. It is likely however that in the vast majority of cases such behaviour will not occur in places of this type.

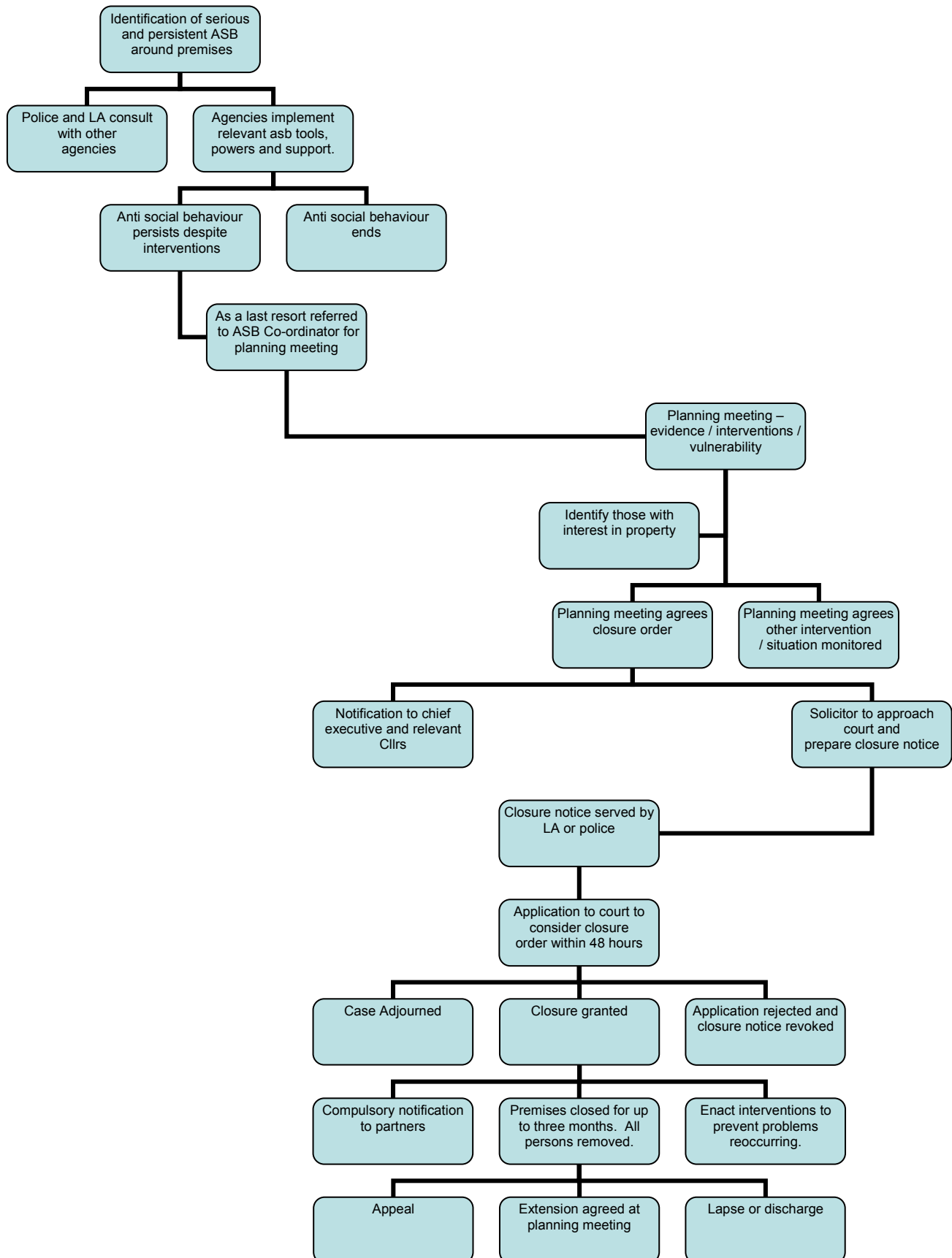
## **Appendix B. Senior Officer Checklist**

### **Closure Notice Approval Check List for Senior Officer**

- Is there persistent and significant disorder or persistent nuisance from the premises?
- Has a person engaged in ASB on the premises in the three-month period ending with authorisation of the closure notice (today)?
- Have other interventions been used or considered and rejected for good reasons?
- Have other options being considered or tried where possible?
- Have the police or local authority been consulted?
- Have all partner agencies been consulted?
- Has the evidence of this consultation being documented?
- Has this consultation involved an exchange of information and have their views been taken into account were desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified?
- Have notices been prepared to serve on them?
- Does the closure notice contain the information required by the act?
  - Give notice of the application for a closure order
  - State the date, time and place where this will be heard
  - Inform all persons that access to the premises by those other than the habitual resident or owner is prohibited.
  - Explain that access by any other person is considered an offence
  - Detail the effects of the closure order if issued by the court
  - Provide information on how to contact advice providers such as housing or legal advisors.
- Has the magistrates court been secured for no later than 48 hours after the intended date and time of service?
- Has the nature of the premises been considered?
- Have any vulnerable persons or children been identified and taken into account?
- Has the social good of a closure been considered?
- Has a risk assessment been carried out prior to entering the premises to enforce a closure order?
- Have arrangements been made for the secure sealing of the premises and the isolation of utilities?
- Have appropriate structures been put in place to ensure that witnesses can be contacted for the case and will be kept informed of developments?
- Is there a plan to follow up the closure with renewed efforts to combat persistent disorder in the area?



## Appendix C. Procedure for pursuing a premises Closure Order







# **CLOSURE OF CLASS A DRUG PREMISES**

## **Brighton & Hove**

# **RAPID REACTION PROTOCOL**

**UPDATED APRIL 2009**

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## **1. THE PURPOSE OF THIS DOCUMENT**

### **1.1 Purpose**

The purpose of this partnership protocol is to;

- Provide clear and agreed guidance for key partner agency staff when considering the enactment of the Closure of 'Class A Drugs' Premises legislation.
- Identify the key issues and stages in the 'Closure' process.

### **1.2 Aims and Objectives**

The aims and objectives of this partnership protocol are to;

- Achieve consistency in practice across the city, to ensure rapid response from the relevant partner agencies and to set out clear procedures in relation to 'vulnerable' tenants/occupants.
- Enable partnership agencies to act rapidly to prevent deterioration in the quality of life for local residents and communities.

### **1.3 Partnership Responsibilities**

Key partners as highlighted above have between them a range of 'statutory' duties and functions to enable them to effectively tackle the problem of supply and misuse of drugs in residential premises. In addition there are partners who may not be under a statutory duty, but who bring added value to the 'Closure' of premises procedure.

The statutory duties as summarised;

- Prevention of crime & disorder
- Prevention of misuse of drugs
- Prevention of anti-social behaviour
- Homelessness duty
- Protection from nuisance and harassment
- Child protection and 'Child in need' duty
- Protection of vulnerable clients duty
- Protection of environment in a safe and clean city



## 2. WHAT IS A 'CLASS A' DRUGS PREMISES

### 2.1 Definition

For the purposes of this Protocol, a 'class A premises or crack house' is defined as

*"A premises typically characterised by a combination of the following indicators",*

- The supply of crack cocaine, heroin or other 'Class A' drugs
- The consumption of 'Class A drugs' within the premises or within the vicinity of the address concerned.
- The 'frequenting' of the premises by identified sex workers; combined with the use of the premises or its vicinity for paid sex work.
- Premises visited by a substantial number (greater than 10) of people on a daily basis in connection with the intended supply, purchase or consumption of 'Class A' drugs.
- The criminal damage of surrounding property or the structure of an estate.
- An increase in acquisitive and violent crime in the vicinity of the premises, linked to the funding of personal drug consumption.
- Requests for Police to respond to firearm incidents and violent assaults either inside the premises or in its vicinity.
- A series of complaints by local residents, detailing severe or violent anti-social behaviour by the tenant or the tenant's visitors.
- The intimidation of local residents, housing officers and local employers.

The Anti-Social Behaviour Act 2003 refers to 'premises', but this term should not be restricted to residential premises, it can also cover commercial and licensed premises.

### 2.2 The Legislation – Anti-Social Behaviour Act 2003

With effect from 20<sup>th</sup> January 2004 a Class A Closure Order can only be implemented by an officer above the rank of Police Superintendent the requirements for implementing the Act are as follows:-

***Reasonable grounds for believing***

***a.) that at any time during the previous 3 months the premises have been used in connection with the unlawful use, production or supply of a class A controlled drug***

*and*

***b.) that the use of the premises is associated with the occurrence of disorder or serious nuisance to the public***

Police may authorise the issue of a closure notice providing they are satisfied that;

**a.) the local authority for the area in which the premises is located have been consulted**

*and*

**b.) that reasonable steps have been taken to establish the identity of any person who lives on the premises, or has control of, or responsibility for, or an interest in the premises.**

## **2.3 The drugs covered**

This power covers Class A drugs as defined by the Misuse of Drugs Act 1971. For the purposes of this power some examples and how it could be used against them are listed below:

<b>Principal Drugs involved</b>	<b>Classification under the MDA</b>	<b>How the power could be applied</b>
Cocaine Crack Cocaine Heroin Ecstasy	Class A	Against Production, Supply or Use.
Amphetamines	Class B	No power under this Act where only these drugs are involved but MDA powers may be used to act against, production, supply or possession.
Cannabis	Class C	No power where only cannabis is involved – Cannabis is however specifically included in Section 8 of the Misuse of Drugs Act; and other MSD action for production, supply or possession offences may be applied.

It should be noted that whilst simultaneous charges against persons for the production, supply or possession of Class A drugs are desirable, they are not a precondition for the use of this power. It is not a requirement for the Police to demonstrate that a specific individual is producing, supplying or is in possession of drugs. The power requires the Police to have a reasonable suspicion that such activities are occurring from a residential premises. This power is significantly different from the MDA powers as it applies to the premises itself as oppose to a person(s).

## **2.4 Drug production**

The closure power will potentially be available where residential premises are being used for the production of any Class A controlled drug. This will be particularly relevant in using the power against Crack Cocaine, and synthetic drugs such as Ecstasy, both of which are commonly produced in the UK in residential premises. The intention behind the Closure Power is to enable the Police to take rapid action in stopping residential premises being used for the commercial production of Class A drugs.

## **2.5 Drug supply**

The closure power will potentially be available where a premises is used for the supply of any Class A controlled drug. Gathering sufficient evidence to prosecute individuals for supply in closed settings such as 'crack houses' can be very difficult to achieve. Therefore this power can be used to close the premises on the basis of reasonable suspicion of supply, confirmed by the presence of drugs and drug paraphernalia amongst other evidence providing, however, that there is disorder or serious nuisance being caused.

These powers are intended to be used in respect of premises that are being used in the production, supply and use of Class A controlled drugs and not against specific individuals. It is not necessary to demonstrate that a specific individual is producing, supplying or is in the possession of drugs. The issuing officer needs to have a reasonable suspicion that such activities are occurring from the premises. An individual found to be on such premises can be arrested under existing law.

## **2.6 Disorder or Serious Nuisance**

Premises cannot be closed simply because drug production, supply or use is taking place. There must also be evidence of disorder or serious nuisance. It does not need to be demonstrated that the disorder or serious nuisance is associated or resultant from the drug use, production or supply, simply that both are present.

Disorder or serious nuisance is not currently defined in law therefore it is up to the courts to define these terms.

## **2.7 Evidence of Disorder or Serious Nuisance**

Behaviour that can constitute disorder or serious nuisance related to the premises are outlined below. The following suggestions should act as guidelines as to the level of nuisance to be considered serious in this context:

- Intimidating and threatening behaviour towards residents
- A significant increase in crime in the immediate area surrounding the accommodation
- The presence or discharge of a firearm in or adjacent to the premises
- Significant problems with prostitution
- Sexual acts being committed in public
- Consistent need to collect and dispose of drugs paraphernalia and other dangerous items
- Violent Offences and Crime being committed on or in the vicinity of the premises
- High number of people entering and leaving the premises over a 24 hour period and the resultant disruption they cause to residents
- Noise - constant/intrusive noise - excessive noise at all hours associated with visitors to the property

Serious nuisance is often demonstrated by accounts from neighbours and/or professional witnesses of the distress caused to the community by the activities at the premises. The accurate recording of events, over time, will also be very important to prove the sustained and intrusive nature of the disorder and serious nuisance.

Evidence of disorder or serious nuisance in statements provided by residents/occupants affected by the behaviour as well as evidence obtained from professional witnesses can be used in proceedings brought by the Police. The partner agencies need to be mindful of needs of witnesses who may suffer acts of recrimination from individuals associated with the behaviour.

## **2.8 Evidence requirements**

The evidence requirements have to meet the threshold as set down by the Anti social Behaviour Act 2003, s1, Part 1.(see section 2.2)

**The Police are under a legal duty to consult with the Local Authority before service of a Closure Notice.**

Although there is no obligation for the local authority to assist it is the role of Social Landlords to work with the Police to help provide evidence that gives rise to a reasonable suspicion to enable the Police to obtain a Closure Notice.

The police will obtain Class A drugs intelligence including seizures, warrants history and arrests made in and around the premises. While the council or RSL may be in a position to provide information by way of complaints received from residents and occupants, independent witnesses, evidence of housing officers in the form of diary sheets and tenancy file history.

In this context a partnership approach to evidence gathering needs to be clear and unambiguous from the outset and with review timescales put in place with the close involvement of a solicitor.

Likely sources of evidence;

- resident diary sheets
- letters of complaint
- Council Housing tenancy file correspondence (if applicable)
- Registered Social Landlord or Housing Association file correspondence
- Environmental Health information, evidence and attendance at premises
- Police Offender profiles
- Police arrest history at premises
- Specific offender arrest history
- Witness statements
- Record of Police incident history in and around premises address
- Map indicating incidents of anti-social behaviour, offences and complaints linked to the premises address

## 2.9 Who has the legislative power to serve Closure Notice?

The legislative power is with the Police. Upon an application by the Police to the Magistrates' Court a Closure Order is sought that can then be served on anyone identified as an interested party. However, in Brighton & Hove levels of partnership working are such that although the power to obtain Closure Orders is with the Police, other Partner agencies play a vital role in the process.

A shared problem solving approach is a clear advantage in sharing resources, intelligence and pooling evidence to effectively tackle the problem and prevent it from re-occurring.

## 2.10 Practical arrangements

Due to the very nature of drug supply, production, consumption and general culture the community is likely to be extremely apprehensive about providing evidence to assist the 'Closure' process.

Having identified potential premises at an early stage, key local officers should agree a strategy to tackle this and to reassure residents and the community that they are tackling the issue proactively. Partners need to be very clear with each other about potential difficulties and should agree to meet regularly and keep channels of communication open to ensure information sharing and the ability to react rapidly.

### 3. VULNERABLE OCCUPANTS

Key consideration must be given to vulnerable status at early planning stage.

#### 3.1 Identifying vulnerability

In Brighton & Hove there is fairly frequent incidence of drug suppliers becoming involved with a tenant or occupant and then over time the property or premises becomes associated with drug supply, misuse and other criminal activity. In these circumstances the original tenant/occupant effectively loses control of their home and becomes a victim of circumstance. The perpetrators target vulnerable individuals they can manipulate through supply of drugs, intimidation, threats of violence and actual violence. In a small number of cases there may be children living on such premises. It is essential that the Police or the Local Authority advise Social Services immediately if vulnerable adults or children are identified in the property.

- Vulnerable individuals in this circumstance are as much a victim as the wider community and if they meet certain criteria they should be treated as such.
- Criteria are set out below as a guide, however vulnerability should not be decided on the basis of how many criteria they meet, it should be a multi agency decision based on individual circumstances.

#### 3.2 Vulnerability guidelines

These categories should be used to guide the decision making process and establish vulnerable status.

Look not only at current status but to try to ascertain historical circumstance.

- Child Protection concerns, Duty & Assessment Team (D&AT) involvement
- Abusive relationship
- Domestic Violence
- Learning difficulties
- Physical disability
- Mental health concerns
- High support needs through floating support, Special Needs Housing Officer, key-worker or other
- Tenancy history (priority transfer history)

The above criteria are not an exhaustive list, but they are guidelines to be used as a starting point in making the vulnerability assessment.

- A comprehensive and objective decision at the earliest stage will have a decisive impact on how to proceed with the case.

For example, it may become clear that the occupant has lost control of the premises and is regularly confronted with violence within the home. A priority transfer may be appropriate. Where a tenant is excluded from their secure tenancy they should be referred to the Local Authority Homeless Persons Unit where they will be assessed to establish whether or not there is a statutory duty for re-housing assistance. The Police and Local Authority officers involved in the process will need to immediately refer information to the Homeless Persons Unit to assist them in assessing the individual's status.

Where the Police have issued a closure notice in respect of privately owned/managed accommodation the tenant/occupant concerned should be referred to the Local Authority for appropriate advice and or assistance in respect of services that may be available to them including a referral to the Authority Homeless Persons Unit.

If in doubt, discuss with your line manager for guidance.

If the premises does not to the best of your knowledge involve any vulnerable clients, record and substantiate this decision and proceed. The Authority should consider immediately issuing possession proceedings to recover the property following a closure notice in cases where the tenant is not vulnerable and is involved in the behaviour.

In cases involving a vulnerable tenant they may be assisted to surrender the original tenancy and be re-housed in other alternative accommodation.

## **4. THE PROTOCOL IN ACTION**

### **4.1 How to get started**

The Protocol will be instigated on the basis of a build up of information provided by a wide range of sources. Primarily, those providing the supporting intelligence will be one of the following:

- Sussex Police
- RSL or Council Housing Manager
- Brighton & Hove Environmental Health Manager
- Partnership Community Safety, Anti-social Behaviour Team Caseworker
- Anti Social Behaviour Housing Officer
- Social Work Manager

Following the decision by the lead officers that a Closure order is necessary the case will be referred to the ASB Co-ordinator.

Following the referral the ASB Co-ordinator will do the following:

- Identify the relevant social landlord (with the assistance of the anti social behaviour team caseworkers)
- Contact the appropriate District Police Inspector and Housing Manager to discuss whether the Closure Protocol should be implemented.
- If the Closure Protocol is agreed upon the ASB Co-ordinator and District Inspector will dependent on timescales either add the property to the agenda for the monthly ASB Multi Agency Planning Meeting or call a separate planning meeting. In the case of an emergency situation, as long as there is consultation, the aim for a planning meeting can be set aside, but all agencies should be informed as a matter of some urgency. If felt appropriate it can be taken to the next available planning meeting for information sharing.
- Request an offender profile of any known residents and a profile of the disorder associated with the property from the ASB Co-ordinator for Sussex Police.
- Invite all relevant parties to the meeting and request that they bring the evidence that they have accumulated of disorder and details of the attempted interventions.
- The District Inspector will continue to monitor the situation, if there is insufficient intelligence to implement the Protocol.

## **4.2 The Planning Meeting Objectives**

The Multi Agency ASB Planning Meeting is a monthly inter-agency meeting which will review whether a tenant should be targeted for intervention under the Protocol. The meeting will decide whether the tenant will be considered as 'Vulnerable' or 'Non-Vulnerable' for the purpose of the Protocol. The assessment will be based upon the information available to the partnership agencies. Normally, each agency should be prepared at the meeting to

disclose the information, which would be necessary to take an informed decision. The Planning Meeting decision is not a fixed decision and the Protocol will allow this decision to be changed as the process develops.

The Multi Agency ASB Planning Meeting is chaired by the ASB Co-ordinator however if this meeting is not appropriate because of timescales then a planning meeting can be chaired by either the ASB Co-ordinator or Police District Inspector. The meeting will consist of the lead managers from relevant services, the ASB Team solicitor and the Caseworkers / Officers directly working with the household.

The planning meeting should:

- Consider whether the closure is appropriate given the nature of the problem identified
- Consider whether there are alternative or more appropriate tools and powers which could be used to alleviate the problem
- Consider whether all alternative tools, powers and support services have been attempted or considered.
- Agree long term strategies for the resolution of the problem
- Look at how the proposed closure will effect vulnerable people
- Agree a strategy for protecting vulnerable people and preventing them from homelessness
- Obtain intelligence on property ownership / management where the property is not social housing.
- If it is appropriate and safe to do so then ensure that the allocated caseworker informs those who may be subject to the closure order that it is being considered and the possible consequences for them.
- Provide advanced notification to homeless services or social services of the proposed action as it may place additional demands on their service.
- Agree the notification of relevant local authority department directors and local councillors who lead on relevant issues i.e. anti social behaviour, housing, children and young people.

If the decision of the meeting is that a closure order will not be applied for and the Police agree to this then the meeting will agree further actions for example:

- Where there is not enough evidence to proceed with a closure order an agreement will be made about how much evidence is required and who will monitor the situation in the future.
- Where the meeting decides that a closure order is not appropriate other interventions will be agreed within the meeting.

It should be noted that the Police only need to consult. There is no obligation on them to accept the views of the local authority when a closure order is not felt to be the appropriate action after consultation.

### **4.3 Consultation:**



Section 11a 2-3 of the Anti Social Behaviour Act requires consultation between a police representative of superintendent level or above and one of the following local authority staff

- Anti Social Behaviour Co-ordinator
- Head of Community Safety
- Assistant Director of Public Safety
- Director of Environment or Adult Social Care & Housing
- Assistant Director of Housing
- Assistant Director of Housing Management

This consultation has to be documented on the certificate of consultation for closure of premises and should be undertaken prior to contact being made with the court. The signed certificate of consultation should be supplied to the solicitor handling the case.

## **5. THE LEGAL & COURT PROCESSES**

### **5.1 The purpose of the Closure Notice**

The Closure Notice alerts those using the property, those resident, the owner and any others with an interest who can be identified, of the intention to apply to the court for a Closure Order. It sends a clear message to the community that action is being taken against the premises, and informs drug dealers that their activities will no longer be tolerated. It gives notice that impending closure of the premises is being sought and details of what this entails. In many cases persons in these premises involved in drug related offending will have been previously warned of impending action, in an attempt to reform their behaviour, or may have been the subject of other law enforcement activity before any notice is served. It is however still essential that when the Closure Notice is served persons in or associated with the premises understand its meaning and that even at this point they have a chance to reform the behaviour associated with the premises. The notice is intended to encourage those who are not habitually resident to leave, or they may be arrested.

### **5.2 The effect of the Notice**

It should be remembered that the Closure Notice in itself may on its own achieve the intended outcome of stopping the premises being used for the production, supply or use of Class A drugs and related disorder or serious nuisance. For this reason Closure Notices should be considered as part of strategic and tactical action against drug supply overseen at a senior level. For the initial 48-hour period before the Court considers the application it may provide immediate relief to the community. Attention should be paid to the timing of the notice to ensure that the community needs are balance against the needs for a fair trial. Serving a notice on a Saturday with a return date on Monday leaves no time for legal advice to be sought. Wherever possible there should be at least one clear day – to allow legal advice to be obtained.

It also creates offences, backed with the power of arrest, for any persons who do not habitually reside in the property, who enter or remain in the premises. The intention is to encourage all those not properly resident to leave at this point and relief to be obtained during the notice period. However it allows for the tenant to stay whilst they arrange alternative accommodation.

Some persons occupying the property may need alternative accommodation and may seek housing advice. These enquiries need to be directed to the Housing Advice Centre at Bartholomew House, Brighton

### **5.3 The contents of the Notice**

The Closure Notice must contain the following information:

- A Closure Order is being sought
- Only the owner or persons who are habitually resident at the premises may now enter the building, but no one else
- The date, time and place at which the Closure Order will be considered
- An explanation of what will happen should a Closure Order be granted- in particular that there will be no further entry to the premises and it will be will be totally sealed. If the premises are residential then the occupier will be forced to find alternate accommodation.
- An explanation that any person who does enter the premises who is not the owner or persons or habitually resident there commits an offence and can be arrested.
- Information on relevant advice providers who will be able to assist in relation to housing and legal matters and information on help with drug treatment options and leaving sex work.

Once an agreement has been reached to serve a Closure Notice the solicitor should approach court staff to fix a hearing date. The date, time and place of the hearing will then be placed on the face of the Closure Notice, which will be served no more than 48 hours prior to the hearing date.

### **5.4 Serving the notice**

The police are not required to ensure that all persons, who may have an interest in the premises and who may suffer financial loss as a result of the closure, are notified prior to the Notice being issued. The Act requires 'reasonable steps' to have been taken to identify such people. It may be the case that these people are difficult to trace and the delay required to identify them would remove the benefits of the Power. However the Closure Notice must be served on any person who is identifiable at the property or who appears to have an interest or to be affected by potential closure.

Identifying these persons need not delay the service of the Notice, for instance on the electoral register or council tax record held by the local authority in the area in which the premises are situated should identify the owner or occupier. If this simply identifies a letting agent, serving notice on them is acceptable.

Service of the Closure Notice can be effected by the affixing of the Notice to the premises, but effort should also be made to give a copy of the Notice to any interested persons. Posting a notice is not desirable, due to the speed and effects of the Notice. However if the owner or letting agent identified is not local posting the Notice may be considered sufficient as the only practicable means.

It may be that the police may apply for a warrant to search the property and seek to bring charges against persons involved in the manufacture, supply or possession of drugs, at the same time as serving the Closure Notice. This may be entirely appropriate. However it is not a requirement. The Closure Notice may be served by a police officer of any rank.

It will be for the police and the relevant local authority to decide the level of joint working on the service of the Closure Notice. In some areas, where it is considered safe to do so, it may be appropriate for the police to be accompanied by the relevant local authority or RSL officer.

## **5.5 Dealing with those in the premises**

Once served, those at a premises affected by the Closure Notice may well choose to leave voluntarily. Those who habitually reside there should be advised to seek alternative accommodation. If they have failed to do so themselves, they should be referred to the Closure Notice or the advice providers referred to in the Closure Notice, regarding help with accommodation, drug problems, leaving the sex trade, and obtaining legal assistance. It may still be possible for those resident to change the way the premises are used. However it is an arrestable offence for a person who does not normally live at the premises or is not the owner to continue to reside at or enter the property during the Closure Notice period. If convicted the individual is liable to imprisonment or a £5000 fine.

The extent to which this power of arrest is used is the decision of the officer in charge based on an assessment of the likelihood of continued disorder or serious nuisance. The application of this power is useful if by it, drug users, where their gathering together has caused nuisance, are removed from the house. If arrest serves this purpose it should be used. Use of the power may be appropriate as a tool in acting against persons identified through service of notice where intelligence suggests they have engagement in supply or other criminal matters.

It is also an arrestable offence to obstruct the police officer serving the Closure Notice.

## **5.6 The Magistrates Hearing**

The key issue that will need to be demonstrated is that disorder or serious nuisance and the use, production or supply of drugs are both present; so care should be undertaken to ensure that convincing evidence of this is presented to the court. Where possible this should also have been served on the occupants of the property at the time of the notice.

Prior to the hearing the police and partner agencies should ensure that the evidence to be presented is in good order and support for community witnesses at the court is in place to enable them to give evidence.

At the court hearing the evidence should be presented by the police and, if requested by the Police and it is appropriate, the local authority or housing provider, to establish the grounds for believing that the house is associated with disorder or serious nuisance related to Class A drugs. As indicated, this need be no more than reasonable suspicion. It is not required that there are charges relating to drugs offences; however witness testimonies that drugs are being sold in the house, or that the house is frequented actively by drug users are appropriate.

The court will be asked to decide whether the making of a closure order is necessary to prevent further disorder or serious nuisance. The court may therefore wish to consider whether alternative methods would be more appropriate. For this reason it is important that evidence of the other actions that have been considered or attempted are provided to the court.

The court is not required to have forensic proof that the drugs being sold, used or produced are Class A drugs; simply that there is reasonable suspicion that they are. A forensic test that would be required for determining criminal responsibility for such drugs under the MDA may take longer than 48 hours to complete. Given that this criminal level of proof is not required it is undesirable that the court adjourns proceedings until forensic tests are completed. Simpler tests are available which will give an indication of the drug involved. Whilst such tests are not considered sufficient proof of the drug involved for the purposes of conviction under the MDA, they have been considered suitable by courts for the purposes of assessing bail under that legislation. Accordingly, whilst such tests are not required by the court in handling these cases, Police may feel that they add some weight in preparing evidence for the court, and so could be considered.

The court is not asked to decide whether making a Closure Order is in the public good. Therefore the relative merits of applying the power to certain types of premises rather than others is not to be decided by the court. The court is simply asked to decide whether the use of the power in the specific circumstances involved is necessary to prevent the occurrence of the behaviour (Clause 2, subsection 3). No property is exempt unless it has been made exempt by order of the Secretary of State.

## **5.7 Potential arguments in defence of closure**

The owner of the premises or any person(s) who has an interest or is affected, may contest the making of an Order. The court can defer the making of the Order by adjournment for 14 days to allow those persons to prepare their case.

It is not the intention that all cases should be routinely adjourned. This would defeat the object of the power, which is speed. The court must decide whether an adjournment is needed. Anyone seeking an adjournment must demonstrate reasonable grounds why it is needed.

The court will wish to hear why the order should not be made. The Act does not specify what reasons there should be for not making the order. This will be for the court to decide in each case. Possible reasons include:

- The landlord, owner or tenant has just been appraised of the situation, and can demonstrate that effective action is being taken to deal with it; or -
- There is evidence that disputes the evidence presented by the police, or evidence that cannot be presented at this time but which will be presented subsequently, thus presenting a case for adjournment

The court operates on a civil rather than a criminal standard of proof (i.e. balance of probabilities). It is not required to have demonstrated the same burden of proof required under the Misuse of Drugs Act to enable conviction of persons for relevant drugs offences.

The court can of course decide that notwithstanding the owner or landlords contention that they will address the problem, that a closure order should still be made whilst they attempt to do so. If they can then subsequently demonstrate sooner than the specified order period that the problem has been successfully addressed then the order can be revoked.

Hence whilst the court has nominally three options, denial of the application, adjournment or closure. In practice the ability to vary the length of the order gives the court flexibility to deal with different circumstances where a shorter order may be appropriate, bring immediate relief whilst the landlord and police deal with the problem, but not leading to extended and costly closure.

The maximum length of an order is 3 months with possibility of further extension to not more than 6. The length of the order should reflect the circumstances above and the desire to bring the property back into management as quickly as possible.

## **5.8 Extensions:**

The powers to extend a closure order for a further 3 months are expected to be used only on rare occasions. There are many disadvantages to leaving properties empty for extended periods and only when there are real concerns that the property will return to its former use should an extension be made.

If an extension is considered necessary then the lead officer needs to refer this matter to the ASB Multi Agency Planning Meeting so that the process of consultation can take place again. The procedure for the authorisation of the extension is the same as with the application and the tests are the same as for the original closure.

The application for an extension may be made at any time prior to the date on which the original order would have expired. This is done by way of complaint by the Police, which fixes a date for hearing.

## **5.9 Appeals:**

The act entitles any persons on whom a Closure Notice was served, as well as any person who has an interest in the premises but on whom the closure notice was not served, to appeal against the making or extension of a closure order.

An appeal may also be made by the Police or Local Authority against the refusal to grant or extend an order.

An appeal against the order or decision not to grant it must be brought to the Crown Court within 21 days, starting on the day on which the order or decision was made.

## **5.10 Discharge of a Closure Order:**

It is important that the property remains empty for as short a time as possible therefore if the nuisance has been addressed satisfactorily before the end date of the closure order, for example where a tenant has surrendered their tenancy, an application should be made to the court to discharge the order. The court will wish to be reassured that the same pattern of behaviour will not reoccur and where a vulnerable person is due to return to the property the court may want to see that an adequate level of support is in place.

Those with a legal right to occupy (or those connected with) the premises or the owner may seek the discharge of the order themselves however the court should give careful consideration to the likelihood of the original problems returning. If the court is satisfied that the owner or landlord is capable and willing to get the problem under control then the order should be discharged.

# **6. POST HEARING TASKS**

## **6.1 The effect of the Closure Order**

The closure order gives a power to close a property completely and remove access by any persons, even those with rights of abode or ownership, except where they are allowed to enter the property under the supervision or direction or permission of the police or the court. The order allows for a property to be sealed, closed, and removed from public use for the period of the order. The Closure Order comes into force immediately the court makes the order.

Breach of the Closure Order is an offence and persons can be arrested if they break it.

## **6.2 Enforcing a Closure Order**

As soon as a Closure Order is granted by the courts it should be enforced. This means the premises in question can be cleared of all persons present including residents and those with an interest in the property who may have remained after the service of the Closure Notice.

The police can use reasonable force to enter and seal a property. This is to allow removal of defences that are often built into such premises and to seal the premises with the required temporary building work or shutters.

The process of entering the property to enforce the Order should be treated with extreme caution. Whilst in many cases the occupants will already have left, in others they may be resistant to leaving. They may also be armed. Therefore the operation should be undertaken following a risk assessment, but reflecting the strong linkage between Class A drugs, guns and violence. On occasion, firearms support may be required. If this is the case, and bearing in mind that obtaining evidence for charges related to supply could be possible, the serving of the Order could require a substantial operational support. Authorised persons such as local authority workers, maintenance staff, utility persons or Housing Officers should not be present until any safety issues have been addressed and the property cleared.

Large quantities of drugs or money may be securely hidden in the premises and that sometimes dealers may return to gather these possessions or to recommence their business. Both a thorough search should be undertaken and subsequently, strong means of property sealing applied.

## **6.3 Dealing with those still occupying the premises**

Those found contravening the Closure Order can be arrested as officers on the scene feel is appropriate on the basis of the evidence available. Those inside or residing are likely to fall into these groups:

- The tenant/owner, who may be the dealer, but is more likely to be a vulnerable person, who may have social care and housing needs, related to drug misuse, mental health, age or some other vulnerability
- Dependents of the dealer/tenant, including children, all of whom will have housing need, and some of whom may need to be taken into care
- Drug users who happen to be there, some of whom may have nowhere to go, and have profound drug needs
- Sex workers, who could have problems of vulnerability, dependency and lack of shelter
- Other criminal associates of those involved in the production, supply or use of Class A drugs

These are only examples of persons likely to be found. The only people who are able to enter the premises following the Closure Order are police officers or persons authorised by the chief police officer or those persons granted access by the court.

## **6.4 Immediate COMPULSORY notification to partners**

Once the Closure Order has been served as described above, telephone or e-mail notification should be made to key partners by the lead officer (i.e. ASB Caseworker, ASB Housing Officer, Police Officer) to the following;

- **Children, Families & Schools-Duty & Assessment Team where children are directly affected by the Closure Order.**
- **Homelessness Team and Housing Advice Centre.**
- **Local Council Housing Office.**
- **Emergency boarding up service to make the property secure**
- **Anti-social Behaviour Co-ordinator**

When notifying the above key partners, you **MUST** provide the following details:

- **Address of premises**
- **Date of Closure Order served at property**
- **Name(s) of persons resident (legally or otherwise) and who will be displaced through Closure Notice enforcement.**
- **Highlighting any Child Protection Issues**
- **Potential intelligence in relation to displacement to other addresses.**

## **6.5 Securing the property**

Once the Closure Order has been served and the property has no occupants within, it is necessary and appropriate that the premises are made secure as a matter of urgency.

Plans should be made to secure the property prior to the hearing so that they can be executed immediately to prevent any occupants regaining entry to the premises.

An emergency boarding or property securing company arrangement should be made. One of the best methods available in the city is Orbis Property Management who can supply and install metal screens to all windows and doors on the premises. The cost associated with this service is for initial fitting, followed by hire charge dependant on length of time in use and finally a further charge once screens are removed.

If the property is Council or RSL it is entirely reasonable that the cost should be borne by them as the landlord or owner of the premises.

If the property is privately owned or rented then it is entirely appropriate for the owner or landlord of the property to make comprehensive arrangements in partnership with the Police and key partner officers. However if the owner is unwilling to engage in this process then the Police or Local Authority will arrange for the property to be sealed. The Police or Local Authority may then apply to the magistrates court for costs against the owner for any expenses incurred in enforcing the closure order, we should notify all landlords of this position.



## 7. APPENDICES

### **Appendix A. Other potential powers / remedies / procedures**

#### **Powers to control landlords who tolerate drug use and dealing**

It is possible that any landlord or owner with responsibility for the property may be complicit in the dealing occurring. It may be that the landlord has been warned already by the police that the premises have been used for this purpose and has not taken action to redress the offending behaviour.

There are other powers, the threat or actual use of which can be used to encourage a landlord or owner to act in these circumstances - Section 8b of the Misuse of Drugs Act 1971, which makes it a criminal offence to knowingly allow the use of cannabis or opium on premises or Section 8d knowingly allowing the supply of any controlled drug on a premises. If the cessation of the behaviour can be achieved by threat of action using this power rather than closure, then this is an alternative course of action that could be used. This could also be used additionally to the closure powers to act against landlords or owners of this type.

#### **Powers to charge those selling or producing drugs for offences under various drugs legislation.**

The Powers contained in this Act are not designed to replace the power available to act against individuals for drug manufacture, supply or possession offences. However they are designed to add to those powers to close places where such behaviour occurs. Where possible, it is still desirable to proceed against individuals using criminal charges of drugs offences. However it is recognised that there are circumstances where the evidence is not available to use these powers and yet the nuisance and harm associated with drugs continues. Therefore it is not a requirement on the senior officer to bring charges under the criminal law for production, supply or possession before the Powers of Closure are applied for. It is simply sufficient for them to have reasonable suspicion that the premises are being used for these purposes and that there is evidence of disorder or serious nuisance being involved. Ideally charges will be brought against specific individuals operating from the premises which are involved; but it is not a requirement.

The Police should consider whether there are more appropriate powers contained in the Misuse of Drugs Act first and whether the use of the powers in this Act would compromise the use of the alternative powers. Both may have an impact on the closure of the property.

#### **Circumstances of simple use of drugs**

As covered above, under definition of use, this power is intended to allow for closure related to the simple use of drugs only where there is disorder or serious nuisance associated with that use. The Misuse of Drugs Act is the primary legal machinery for control and regulation of simple possession of drugs. This power is concerned to address various forms of Anti-Social behaviour associated with such use. Therefore use of this power should be predicated firstly by the scale of nuisance involved rather than use on its own. It is not the intention of this power to allow for further criminalisation of personal drug use, but to create powers appropriate to disorder or serious nuisance that occur in connection with the use of drugs

### **Other powers to control nuisance**

It is similarly not a requirement to apply other powers to control behaviour before using the Powers of Closure, such as ASBOs. Such powers may be suitable and may be adequate to control certain types of anti social behaviour but it is not a requirement for such other methods to have been used previously. Where there is disorder or serious nuisance on its own, not associated with drugs, or minor nuisance, perhaps associated with the simple use of drugs, then other means of controlling the behaviour may be more appropriate. However, where disorder or serious nuisance is clearly and demonstrably involved alongside Class A drug misuse it may be appropriate to use this Power to provide immediate relief to the community. It is a requirement that there is disorder or serious nuisance present before proceeding to use these powers. There is a three month set time limit on when such behaviour must be shown to have occurred within to enable a Closure Notice to be served.

### **Powers to exclude persons from an area**

Section 222 of the Local Government Act 1972 grants the power to a Local Authority to bring an order excluding persons from an area entirely. This injunction has been used successfully against suspected operators of 'crack houses'. An ASBO has a similar function but this power may be more flexible and easier to obtain. The court is likely to require a similar set of evidence as would be required for a Closure Order. Both sets of orders can be applied together to give closure of the property and exclusion of the perpetrators, and could be added to with prosecution for supply or intent to supply under the Misuse of Drugs Act. Action in this manner would be seen as part of a concerted effort to control the supply and use of Class A drugs in a community.

Where the premises are owned by a Registered Social Landlord, or by a local authority, Part 2 of the Anti-social Behaviour Act amends s.153 of the 1996 Housing Act to also allow for a power of exclusion to be attached to injunctions.

## **Appendix B. Certain sensitive types of premises on which it may not be suitable to issue a Closure Notice.**

The senior authorising officer must take into account the potential harm that may result in the closure of some types of properties and consider the overall social good in doing so. Whilst no specific types of premises are exempt from these powers, the appropriateness of their use in some circumstances should be considered. Ultimately it is for the court to decide whether the closure of any specific premises on a specific occasion is justified, but the authorising officer should also be mindful of the implications and whether other methods of control may be more appropriate.

These circumstances may include:

- Properties where closure cannot be effected without removing access to large numbers of persons who would be made homeless, have no right of re-housing, or would otherwise be caused harm through closure. Examples might include hostels with many residents (although not smaller units), bed and breakfast hotels and long term supported accommodation such as sheltered schemes.
- Hospitals
- Schools
- Children's homes
- Drug treatment services

The court is not asked to decide whether it is in the public good whether such premises are closed; simply whether the criteria for closure are met and the making of the order will prevent the occurrence. Hence the officer making the decision must be mindful of the implications of closure when they seek to apply the power to premises where many persons, many vulnerable, will be displaced, and which provide valuable services to many others. This risk must be balanced against the risk arising from allowing the behaviour to continue, and the other powers that may be available. It is likely however that in the vast majority of cases such behaviour will not occur in places of this type.

The consultation requirement is crucial here. Whilst the opposition of the Local Authority is not a bar to closure, it should be crucial in the process of making a decision. The Secretary of State also has the ability to exempt by Statutory Instrument certain types of premises from the scope of the power. Any such exemption will prevent the issue of a Closure Notice or Order against any such defined premises.

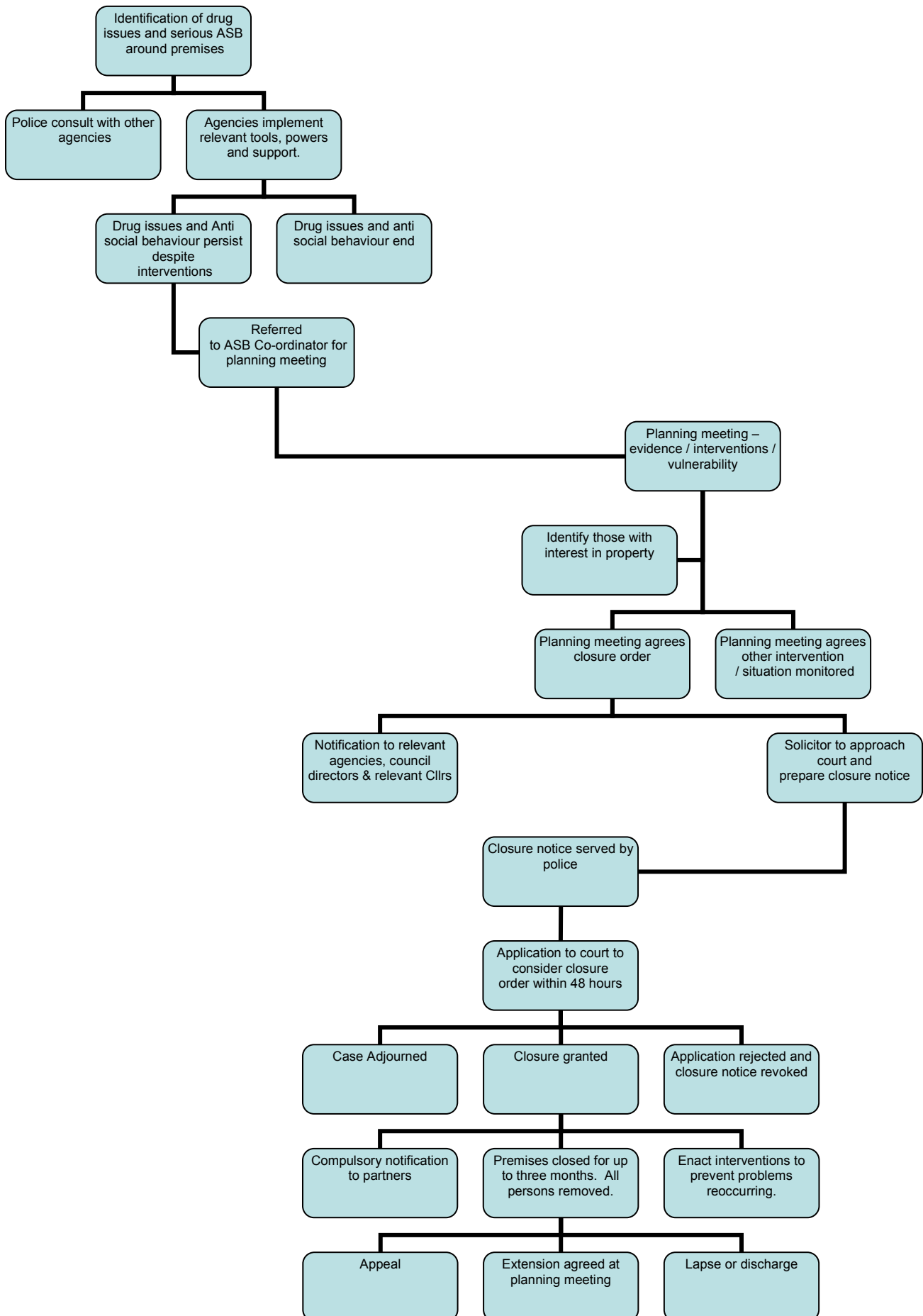
## Appendix C

## Senior Officer Checklist

### Closure Notice Approval Check List for Senior Officer

- Is there disorder or serious nuisance from the premises?
- Is there suspicion of production use or supply of Class A drugs?
- Has evidence of this been appropriately collated?
- Is this within the previous 3 months of the authorisation of the Closure Notice (today)?
- Has the Local Authority been consulted?
- Has this involved an exchange of information and have their views been taken into account where desirable?
- Have those who live, control, own or have responsibility or an interest in the premises been identified?
- Have Notices been prepared to be served upon them?
- Have other options been considered or tried where possible?
- Has a Magistrates Court Hearing been secured within 48 hours of the intended date and time of service?
- Does the Closure Notice contain the information required by the Act?
- Notice of the application for a Closure Order
  - Give notice of the application for a closure order
  - State the date, time and place where this will be heard
  - Inform all persons that access to the premises by those other than the habitual resident or owner is prohibited.
  - Explain that access by any other person is considered an offence
  - Detail the effects of the closure order if issued by the court
  - Provide information on how to contact advice providers such as housing or legal advisors.
- Have partner agencies been notified as appropriate?
- Has a risk assessment been made against the premises?
- Has appropriate back up therefore been provided and other policing tactics to be used alongside this action been considered?
- Has the nature of the premises and possible vulnerable persons or children been considered?
- Have appropriate services been advised of the potential demand upon services by these groups and drug users?
- Has the social good of closure been considered?
- Have arrangements been made for the secure sealing of the premises and the isolation of utilities?
- Has the Secretary of State granted any exemptions to types of premises?
- If so does the premises fall within that exemption?
- Have appropriate structures been put in place to ensure witnesses can be contacted for the case and will be kept informed of developments?
- Is there a plan to follow up the closure with renewed efforts to combat drugs and crime in the area?

## Appendix D. Procedure for pursuing a Class A premises Closure Order





### REPORT OF THE SUSSEX POLICE AUTHORITY

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The Sussex Police Authority met at County Hall, Chichester, on 16 April 2009. Attendances:

Mr L H Barnard (Chairman), Mr P Bratton, Prof G Bull, Dr L E Bush (Vice-Chairman), Mrs M Collins DL, Ms E Daniel, Mr B Duncan, Mr F H Faiz, Mr P Jones, Mr J Mortimer, Mr A Price JP, Mr D Rogers OBE, Mrs C Shaves MBE JP, Mr R Tidy, Mr G Theobald OBE, Mr S Waight and Dr R Walker.

The Police Authority considered a range of policing issues at the meeting including the following matters. The full set of reports considered at the meeting can be accessed on the Authority's website:

[www.sussexpoliceauthority.gov.uk](http://www.sussexpoliceauthority.gov.uk)

#### Partnership Working

- 1.1 The Authority and Sussex Police continue to work closely with local authorities in Sussex to tackle community safety across the County. A good example of partnership work with East Sussex County Council is the development of the East Sussex Youth Crime Prevention Strategy. This is a significant piece of work that will ensure all partners work together to tackle the root causes of youth crime with a range of services and interventions. The Strategy will provide a number of actions for the East Sussex Policing Division to deliver on the strategic objectives, including the piloting of a Youth Restorative Justice Scheme which, through Neighbourhood Panels, identifies the kind of reparation work communities would like to see youth offenders undertake. The consultation phase for the initial draft of the strategy has just closed, and the Safer Communities Team are working towards delivering a final version towards the summer.
- 1.2 It is also to be welcomed that East Sussex County Council has recently been awarded 'Pathfinder' status in a national project aimed at rejuvenating identified play sites across the country. £2.1m of funding is being made available for the project, with 15 play areas already refurbished and a further 13 new builds or refurbishments planned for the next phase. A flagship development in Ore Valley, Hastings will include a fully staffed £800,000 adventure playground. The project is aimed at providing focal points for communities and safe, well-maintained areas for children and young people to play. Safe, clean, looked-after public spaces are thought to be key in assisting community cohesion and contributing towards making communities feel safer.

- 1.3 Sussex Police in collaboration with Brighton & Hove City Council has been seeking to use next year's Youth Crime Action Plan funding from the Department for Children Schools and Families (DCSF) in the delivery of enhanced parenting, youth diversionary projects and intervention to prevent young people entering the criminal justice system. As part of this work Brighton and Hove Neighbourhood Policing Team have submitted a bid for £50,000 to enhance Operation Park, the city wide Youth Disorder operation that is deployed on Friday and Saturday nights. The DCSF indicated that the operation should be put forward as an example of best practice nationally due to its effective multi-agency approach.
- 1.4 Another good example of partnership working is with West Sussex County Council where Sussex Police and the County Council are using the full range of legislation and other tactical options to crack down on alcohol fuelled disorder in North Downs Policing Division. This includes an increase in police presence in the town centres, drug testing operations at public houses, over 70 licensing visits to on and off licensed premises, joint operations with British Transport Police at railway stations, drugs dog operations and drink drive checks at key locations. The Operation resulted in 19 checks being made on door supervisors, 12 arrests were made for alcohol related crimes, and 53 stop and searches were carried out by dedicated staff.
- 1.5 In a two week crackdown by partnership agencies designed to tackle road safety and anti social driving in Horsham district, 58 motorists were prosecuted for speeding offences, or using their mobile phone whilst driving. Fourteen vehicles were seized for having no insurance, and there were arrests for driving with excess alcohol and driving whilst disqualified.

### **Emergency Planning/Operational Planning**

2. The Authority and Sussex Police are also working closely with local authorities in Sussex as part of the Sussex Resilience Forum which is the process by which organisations on which a duty falls under the Civil Contingencies Act co-operate with each other. Its overall purpose is to ensure effective delivery of those duties that need to be delivered in a multi-agency environment. Sussex Police supported the first Multi-agency Safety Advisory Group Seminar at Slaughman Manor in February. The aim of the Seminar was to promote the development of groups within each district council area. Groups, where established, act as the first point of reference for all those who are intending to organise a public event, on or off the highway, providing advice and guidance regarding the specific areas of responsibility for both the organisers and the other agencies involved.

### **Sexual Assault Referral Centre (SARC)**

- 3.1 The Chief Constable has advised the Authority that the new SARC is providing enhanced care to victims of sexual assault in Sussex. The Saturn Centre at Crawley Hospital provides valuable support to men



and women who have made reports of sexual assault to the police. When there is a report of sexual assault in Sussex, a specially trained police officer takes the victim to the Saturn Centre where they are met and reassured by an Independent Sexual Violence Adviser. Victims are then medically examined by a doctor, have the opportunity to provide a statement to police, and are given information to access other local services – all at one location. It is envisaged that victims of sexual assault who use the services of the SARC will have more confidence in the investigative and criminal justice processes, making victims less likely to withdraw complaints, and therefore more likely to see justice.

- 3.2 Tackling domestic violence is a key focus for Sussex Police. Working closely with Association of Chief Police Officers (ACPO), Sussex Police has been one of three Forces to carry out a trial of a new risk assessment process for victims of domestic violence, honour based violence and harassment. The process enhances the ability of Sussex Police to identify high risk victims of domestic abuse in particular. Sussex Police has held successful trials on North Downs and Brighton & Hove Policing Divisions. Having now been approved by ACPO as best practice nationally, it is being rolled out to the other Divisions, making Sussex only the second Force in the country to have this more robust process across its whole area.

### **Rapes and serious sexual assaults**

4. A review has been undertaken of all the undetected rapes and serious sexual assaults that occurred in Sussex between 1990 and 1999, partly as a result of the National Forensic Service Initiative – Operation Advance. As a result Sussex Police is now progressing five cases. A similar review is being carried out of offences committed between 1980 and 1989. To date 86 cases have been re-examined with eight cases being progressed.

### **Asset Confiscation**

5. For the performance year to date, Sussex Police has exceeded its Home Office target of volume of Confiscation Orders. A total of 124 have been achieved which is seven above the target figure. The value of the Orders achieved to date is £1.5m, which is an 84 per cent increase on last year's total performance.

### **Road Policing Unit**

- 6.1 The Road Policing Unit (RPU) has continued to focus its casualty reduction activity around the six strategic priority groups identified as the highest risk to the Killed / Seriously Injured (KSI) target figure for 2009. At the end of the year 2008 RPU saw a continued drop in overall injury collisions (9 per cent), although the target was exceeded. This current year's stretch KSI target to meet the Department for Transport 2010 target is set at 826 for 2009 (an 18 per cent reduction on 2008 levels). Currently KSIs are down 20 per cent compared to this time in 2008 and down 26 per cent compared

to 2007 (as at 12 March 2009), but there is no room for complacency.

- 6.2 The national Drink Drive campaign occurred through December 2008 and Sussex RPU ran an extended campaign throughout the Force area. The data collated shows that the Force conducted 6422 breath tests during the eight week campaign and 305 arrests were made as a result of a positive test.

### **Review of Risk Management**

- 7.1 The Police Authority has considered the current arrangements for monitoring risk and the proposals for enhancing and strengthening the process of risk management. It has been agreed that the management of risk should become an integral part of general business for each of the Authority's committees or groups. The initial assessment and grading of the risks will continue to be undertaken by the Chief Executive, but regular reports on risk to each of the committees and groups will allow members to assess the judgements for the risks pertinent to that committee and be able to suggest further controls or assessments to be put in place to manage the risk. The Chairman of the each committee/group would formally take the lead for signing off the risk on behalf of the committee/group.
- 7.2 The Police Authority will also be appointing a Lead Member for Risk Management at its annual meeting who will have general oversight of policy and process relating to Risk Management for the both the Authority and Sussex Police.

### **Note from the Chief Executive**

#### **Appointment of Assistant Chief Constables**

- 8.1 The Police Authority has appointed two new Assistant Chief Constables.
- 8.2 ACC Nick Wilkinson, who has been a temporary assistant chief constable since February, joined Sussex Police in 1981 and most recently has been the East Sussex divisional commander. ACC Wilkinson will be responsible for operational support, which includes communications, information services, the Criminal Justice Department.
- 8.3 ACC Olivia Pinkney, comes to Sussex from Avon and Somerset Constabulary. She has served as the divisional commander for Bath and North East Somerset and Head of Special Branch. ACC Pinkney will have specific responsibility for protective services including the Operations Department.

Lionel Barnard  
Chairman

APRIL 2009

## EAST SUSSEX FIRE AUTHORITY

### Report of a meeting of the East Sussex Fire Authority held at Fire & Rescue Service Headquarters at 10.30 hours on Thursday 5 February 2009.

Members present: Councillors Carden, Freeman, Gadd, Harmer-Strange, Healy, Howson, Kemble, Kirby, Livings, Murphy (Chairman), Ost, Pidgeon, Rufus, Scott, Sparks and Wilson.

#### 1. FIRE AUTHORITY SERVICE PLANNING PROCESSES FOR 2009/10 AND BEYOND

- 1.1 The Fire Authority has considered joint reports of the Chief Fire Officer & Chief Executive and the Treasurer concerning the draft Fire Authority Service Planning and Revenue Budget processes for 2009/10 and beyond.
- 1.2 The Treasurer reported that, in his opinion, the budget met the requirements of Section 25 of the Local Government Act 2003 in terms both of the robustness of the estimates made for the purposes of calculating the adequacy of the proposed financial reserves.
- 1.3 Extensive consultation has taken place on the proposed budget options for 2009/10 and there has been significant support for the options presented. The representative bodies have also been consulted and were supportive of the budget strategy.

The Treasurer highlighted to Members the changes in the budget proposals since the confirmation by collection authorities of the Council Tax Base and Collection Fund Surpluses and Deficits, primarily the additional provision of £47,000 in the base budget for purchase of smoke alarms and the re-instatement of savings of £50,000 relating to learning and development and staff advertising. Members were also reminded of a number of continuing risks related to the current economic recession e.g. possible further reductions in treasury management income, impact on Council Tax Collection rates and reduced likelihood of achieving capital receipts to finance the capital programme.

The Treasurer confirmed that a Council Tax rise of 3.92% was required in order to meet the Authority's net budget requirement of £38.020m. He also advised that whilst it was not possible to judge what the Government would regard as "substantially below 5%" for the purposes of capping, the Authority had a sound justification for the proposed rise of 3.92%.

- 1.4 The Treasurer thanked EFRS and County Council staff for their support to him and the Chief Fire Officer & Chief Executive in producing the budget. Members concurred with this, agreeing that it had been a difficult job, undertaken during difficult circumstances, producing excellent results.
- 1.5 The Fire Authority has approved the necessary detailed budget and service planning decisions and, in accordance with the Local Government Finance Act 1992:
  - approved the amount calculated by the Fire Authority as its budget requirement for the year 2009/10 at £38.020m; a 3.1% increase on the 2008/09 budget base of £36.892m;
  - approved the amount calculated by the Fire Authority as the basic amount of its council tax (i.e. for a Band D property) for the year 2009/10 at £80.08 (based on final taxbase figures); (3.9% increase on the 2008/09 Council Tax Band D figure of £77.06);
  - agreed that Brighton & Hove City Council and the Borough and District councils of East Sussex (the billing authorities) be advised by the Treasurer of the relevant amounts payable and the council tax in the other bands.

