

**REPORT TO:** POLICY AND RESOURCES COMMITTEE – 20 DECEMBER 2004

**REPORT ON:** ANTI-SOCIAL BEHAVIOUR ETC (SCOTLAND) ACT 2004 – THE WAY FORWARD

**REPORT BY:** DEPUTE CHIEF EXECUTIVE (SUPPORT SERVICES)

**REPORT NO.:** 852-2004

**1. PURPOSE OF REPORT**

1.1 This Report summarises the main provisions of the 2004 Act.

**2. RECOMMENDATIONS**

2.1 It is recommended that the Committee note

2.1.1 the contents of this Report, and

2.1.2 that further Reports will be brought forward to the Council as appropriate over the coming year

**3. FINANCIAL IMPLICATIONS**

3.1 The cost of the initiatives contained in this report will be met from Departments' Revenue Budgets and the Scottish Executive funding to Local Authorities to tackle anti-social behaviour. Dundee City Council's allocation of Scottish Executive funding is £1,684,570 in 2004/05 and £1,869,950 in 2005/06.

**4. LOCAL AGENDA 21 IMPLICATIONS**

4.1 The 2004 Act will have a positive impact on the following Local Agenda 21 themes

- people live without fear of personal violence from crime
- health is protected by creating safe, clean, pleasant environments
- all sections of the community are empowered in decision making
- the day to day protection from disturbance to a peaceful home is fostered

**5. EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 The Act will address anti-social behaviour affecting all sectors of society.

**6. MAIN TEXT**

6.1 The Anti-Social Behaviour Etc (Scotland) Act 2004 is designed to give those bodies who deal with anti-social behaviour new tools to get on with the job of tackling such behaviour. A summary of the main provisions of the Act, along with commencement dates and the appropriate enforcement authorities follows. The Dundee Community Safety Partnership Working Group is developing the Anti-Social Behaviour Strategy and is forming off shoot working groups to examine the best way to implement these provisions. Individual Reports on each aspect will be brought to the relevant Committees for approval in the forthcoming twelve months.

6.2 Anti-Social Behaviour Strategies

Every Council along with the relevant Chief Constable must prepare and publish a strategy for dealing with anti-social behaviour in their area setting out the problems that exist, the services that exist to prevent or tackle them, new services that will need to be put into place to fill gaps and how the Council and Police will coordinate their work. This is being done through the Group referred to in 6.1 above.

**Start date – 28 October 2004**

6.3 Anti-Social Behaviour Orders

These are preventative orders to protect victims of anti-social behaviour and the wider community. They were first introduced in 1998. The main changes are that Sheriffs can now grant ASBO's against children aged 12 or over, ASBO's can cover other local authority areas (as well as the one in which they were granted) and the Police will have power to arrest anyone breaching an ASBO.

**Start date – 28 October 2004**

6.4 Dispersal of Groups

This is a new power for a senior Police Officer to designate an area, in consultation with the Council, where there has been anti-social behaviour. The Police can then disperse groups forming there, order people to leave and prohibit them from returning for the next 24 hours.

**Start date – 28 October 2004**

6.5 Closure of Premises

This is a new power for a senior Police Officer to serve a Closure Notice, in consultation with the Council, if there has been anti-social behaviour, nuisance or disorder in particular premises (e.g. drinking or drug dens). The only people who will then be allowed to enter are the owner and anyone who lives there. The Police can also apply for a Closure Order. This seals off the premises entirely.

**Start date – 28 October 2004**

6.6 Noise Nuisance

Local authorities can apply noise controls to specific areas at specific times, issue Warning Notices if those controls are breached and serve fixed penalty notices of £100.

**Start date – 1 December 2004**

6.7 The Environment

In the case of litter, the Police will now have power to serve fixed penalty notices and there is no longer a requirement that the person dropping litter is caught in the act.

In the case of fly tipping fixed penalty notices can now be served and it is no longer a requirement that the culprit is caught in the act.

In the case of graffiti local authorities now have power to issue notices to those responsible for street furniture (e.g. 'phone boxes) requiring them to remove graffiti. If it is not removed local authorities can carry out the work and claim back the cost.

The penalties for certain criminal offences in relation to the environment have also been increased.

**Start dates – 28 October and 5 November 2004**

6.8 Anti-Social Behaviour Notices

If a landlord does not take action to prevent anti-social behaviour at a house he lets the Council can serve an Anti-Social Behaviour Notice setting out what he must do. If he still does not do so he will be committing a criminal offence for which the fine is up to £5,000. The Council can also apply to the Sheriff for an Order that no rent should be paid to the landlord or an Order transferring the management of the property to it.

**Start date – 15 November 2005**

6.9 Registration of Private Landlords

Landlords must be judged "fit and proper" by the Council. If they are not, they will not be registered. Letting a property without being registered is a criminal offence for which the fine is up to £5,000. The Council can also serve a Notice that the tenant must not pay any rent. If that was done, Housing Benefit would also stop.

**Start date – 15 November 2005**

6.10 Parenting Orders

The Council or the Principal Reporter can apply to the Sheriff for a Parenting Order to prevent anti-social or criminal behaviour. Breaching an Order will be a criminal offence for which the fine is up to £10,000.

**Start date – 4 April 2005**

6.11 Anti-Social Behaviour Orders

Courts can now make ASBO's if a person is found guilty of a criminal offence involving anti-social behaviour.

**Start date – 28 October 2004**

6.12 Community Reparation Orders

People aged 12 or over who are convicted of an offence involving anti-social behaviour can be made to work between 10 and 100 hours to give something back to the community.

**Start date – Pilots begin in January 2005. A Pilot will take place in Dundee.**

6.13 Restriction of Liberty Orders

These are extended to under-16's.

**Start date – 4 April 2005**

6.14 Ban on Selling Spray Paints to Under 16's

Selling spray paint to people under 16 is a criminal offence for which the fine is up to £1,000.

**Start date – 5 November 2004**

6.15 Seizure of Vehicles

The Police are given power to seize vehicles which are or have been driven on or off the road in an anti-social way.

**Start date – 28 October 2004**

6.16 Fixed Penalty Notices

Fixed Penalty Notices can be served for a range of statutory offences including continuing to play musical instruments, singing etc. after being asked to stop, vandalism and drinking alcohol where it breaks a bye-law. If the fixed penalty notice is not paid or challenged within 28 days it goes up by 50%.

**Start date – 28 October 2004. Pilots in the Tayside Police Force area from April 2005.**

6.17 Childrens Hearings

Childrens Hearings can ask the Reporter to apply for an Order from the Sheriff asking a local authority which has not carried out its duties under a supervision requirement to do so. The Reporter can also refer the case of a child who has been excluded from school to the Scottish Ministers if the local authority have not carried out its duties to provide education for the child.

**Start date – 31 January 2005**

6.18 Outwith the Council, a Dundee Community Safety Partnership Working Group under the chairmanship of Chief Superintendent Ian Alexander of Tayside Police has been formed to develop an Anti-Social Behaviour Strategy. Council Officers from the Communities Department, Corporate Planning Department, Environmental Health and Trading Standards Department, Housing Department and Legal Division are represented on the Group. It is also anticipated that that Group will form smaller Task Groups to take forward certain specific pieces of work.

6.19 Within the Council the Chief Executive has also formed an Anti-Social Behaviour Working Group chaired by the Depute Chief Executive (Support Services) and comprising representatives of the Communities Department, Environmental Health and Trading Standards Department, Finance Department, Housing Department, Legal Division, Waste Management Department and the District Court to co-ordinate work on the implementation of the Act and ensure a "joined up" response to it. Certain parts of the Act have already been the subject of Reports to the Council and further reports will be brought to the Council as appropriate over the coming year.

7. **CONSULTATION**

7.1 The Chief Executive and the Depute Chief Executive (Finance) have been consulted in the preparation of this Report.

8. **BACKGROUND PAPERS**

8.1 None

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Patricia McIlquham

Date \_\_\_\_\_  
10 December 2004

Depute Chief Executive (Support Services)