

## **CABINET MEMBER FOR SAFE AND ATTRACTIVE NEIGHBOURHOODS**

**Venue: Town Hall,  
The Crofts,  
Moorgate Street,  
Rotherham S60 2TH**

**Date: Monday, 18th April, 2011**

**Time: 10.00 a.m.**

### **A G E N D A**

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972 (as amended March 2006).
2. To determine any item which the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. 22 Boston Castle Grove (Pages 1 - 7)
4. Charging for Housing Act 2004 Enforcement (Pages 8 - 18)
5. Home Office Consultation re: More Effective Responses to Anti-Social Behaviour (Pages 19 - 30)
6. Neighbourhoods General Fund Revenue Budget Monitoring (Pages 31 - 36)

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet Member for Safe and Attractive Neighbourhoods</b>
<b>2.</b>	<b>Date:</b>	<b>18<sup>th</sup> April 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Moorgate Cemetery Lodge, Workshops and Garages</b>
<b>4.</b>	<b>Directorate:</b>	<b>Environment and Development Services Neighbourhoods and Adult Services</b>

## **5. Summary**

22 Boston Castle Grove is a vacant three bedroom cemetery lodge located in the Moorgate area.

The property was previously utilised as tied tenancy accommodation for the cemetery caretaker and was vacated in September 2009 upon the externalisation of the Cemetery and Crematorium service to Dignity Funerals Limited.

Dignity have confirmed that they do not require accommodation for an on site caretaker therefore options are currently being explored for its future use.

The cemetery workshops and garages are located to the rear of the property and are under utilised.

This report proposes the sale of the lodge, workshops and garages to enable a significant capital receipt to be generated and cost savings in relation to the ongoing maintenance and running costs.

## **6. Recommendations**

**That the Cabinet Member:**

- **Approves Option 4- Open Market Sale of 22 Boston Castle Grove, Moorgate Cemetery Workshops and Garages**

## 7. Proposals and Details

22 Boston Castle Grove is situated within a grade two conservation area in the affluent area of Moorgate. All houses within the area are privately owned with the exception of the property identified within the report. A location map is attached as Appendix 1.

The building is a two storey stone built detached house constructed in the 1840's with a number of architectural features.

The general condition of the property is good however if the Council were to retain the property, it would require decent homes works including kitchen, bathroom, windows and doors.

Retention of the property would also present a management issue as the Council do not own any other houses within the Moorgate area. Its dispersed nature presents a comparatively higher management cost.

The property has a very small courtyard with no garden area and is therefore limited in terms of its amenity space. However there are underused Council owned workshops to the rear of the property which could be included in the sale. They are of a poor visual appearance and add very little aesthetically to the wider conservation area. The buildings consist of workshops with a communal area, kitchen and toilets and two garages accessed from Boston Castle Grove.

They are in a poor condition and require investment to repair a damaged external wall and flat roof which present a potential health and safety issue.

The Council are responsible for the maintenance and running costs of the workshops.

They are currently utilised for four hours during one day per week by the Community Payback Scheme to enable ad-hoc jobs to be undertaken within the cemetery.

The Community Payback Scheme would not be able to operate within the cemetery if they are unable to access the workshops as they require access to welfare facilities.

However, the Council do not benefit from any cost savings from the work undertaken by the scheme as Dignity are responsible for the maintenance of the cemetery. Therefore, Dignity are saving money whilst the Council are paying for the ongoing costs relating to the building.

It is recommended that the workshops and adjoining garages are included in the sale of the property to enable the potential purchaser to demolish the buildings and extend their garden area.

This would make it a more appealing asset with an increased value that would enhance the character of the wider conservation area. Furthermore, the garages accessed off Boston Castle Grove could be retained by the property owner and used as off-street parking in an area where there is no alternative provision.

Sale of the buildings would also relieve the Council from the ongoing running and maintenance costs.

Photos of the lodge, workshops and garages are attached as Appendix 2.

## **7.1 Option Appraisal**

A number of options have been considered for the future use of the property as detailed below:

### **7.1.1 Option 1- Retain and re-let as a Council property**

The property would be transferred to the HRA General Housing Portfolio and works would be undertaken to the decent homes standard to enable it to be re-let. The Council would continue to benefit from the asset value and the annual rental income generated.

However, the Council do not own any other properties within the Moorgate area therefore it would create a higher management cost.

An assessment has been undertaken of repair needs to bring the properties to the Decent Homes standard which totals £13,750 approximately.

The cost of investment falls below the investment threshold for individual properties which is currently set at £20,000.

A report itemising the full repair needs and cost breakdown is attached as Appendix 3.

The workshops would also be retained and continue to function with poor usage as a base for the community pay back scheme. We would need to identify funding to undertake repairs within the building and support the ongoing running costs. The Council would retain full liability for the workshops as the community pay back scheme are not willing to lease them.

We would also undertake repairs to the garages to enable them to be let to residents within the area. We would need to replace damaged garage doors and external walls prior to letting them. It is anticipated that the garages would generate approximately £485 per annum income. However, the garages would also present a management issue as the Council do not own any other garages within the Moorgate area.

This option is not recommended.

### **7.1.2 Option 2- Sale to a Registered Provider**

This option would transfer the property, workshops and garages to a Registered Provider (Registered Provider is the new name for Registered Social Landlord's). The property would be sold on the basis that it is renovated and re-let as an affordable home, with the cost being borne by the Registered Provider. The Council would also retain nomination rights for the properties.

However the RP would benefit from the property asset value and the future net rental income stream. In addition, it is anticipated that a sale to a RP would be at less than market value. The value of any sale discount would probably not compare favourably with the cost of retention and investment detailed in Option 1.

This option is not recommended.

### **7.1.3 Option 3 - Open Market Sale of 22 Boston Castle Grove and retention of garages and workshops**

Disposal on the open market would generate a much needed capital receipt to the Council and transfer liabilities for improvement to the new owner. We are confident that it would be sold quickly as the Land and Property Team have received a number of enquiries regarding its future sale.

The property has been valued at £150,000.

This option would relieve the Council from the ongoing maintenance and management costs in relation to the lodge. However, we would still be responsible for the workshops and garages which are in need of repair.

The Community Payback Scheme would continue to utilise the workshops and we would let the adjoining garages to residents within the area.

This option is not recommended.

### **7.1.4 Option 4- Open Market Sale of 22 Boston Castle Grove, Cemetery Workshops and Garages**

Disposal on the open market would generate a much needed capital receipt to the Council and transfer liabilities for improvement to the new owner. We are confident that it would be sold quickly as the Land and Property Team have received a number of enquiries regarding its future sale.

The Cemetery Lodge would be sold together with the adjacent workshops and garages to increase the value of the property and marketability of the asset.

The property and adjacent workshops and garages have been valued at approximately £190,000.

This option would relieve the Council from the ongoing running, maintenance and management costs in relation to the lodge, workshops and garages.

This option is recommended.

## **7.2 Consultation**

### **7.2.1 Ward Members**

The properties are situated within Ward 2 Boston Castle. The Ward Members have been consulted about the options.

Councillor Wootton is supportive of the sale of the Lodge and garages however he strongly objects to the sale of the workshops due to the impact on the Community payback scheme within the cemetery.

Councillor Hussain has no objections to the sale of the workshops, lodge and garages.

No response has been received from Councillor McNeely.

### **7.2.2 Friends of Boston Castle and Moorgate Cemetery**

The Friends of Boston Castle and Moorgate Cemetery have also been consulted and they are supportive of the sale of the Lodge and garages.

However they strongly object to the sale of the workshops due to the loss of the community payback scheme within the cemetery.

We have also investigated other alternative premises within the area to enable the Community payback scheme to continue operation.

Renovation works to Boston Castle will commence shortly however due to the proposed use of the building as a museum and the scheduled completion in April 2013 it is not considered suitable for use for the community payback scheme.

The group have also been offered use of the cemetery chapel however it is in a poor state of repair and would require major investment to enable it to be utilised. Therefore they were not willing to consider this option.

A formal objection letter is attached as Appendix 4.

### **7.2.3 Rotherham Family History Society**

The Rotherham Family History Society have objected to the sale of the cemetery workshops, again due to the impact that this will have on the work of the Community Payback Service. An objection letter is attached as Appendix 5.

## **7.3 Recommendation**

It is recommended that the lodge, workshops and garages are sold together on the open market as detailed in Option 4. This option would generate a significant capital receipt to support the corporate programme and relieve the Council from ongoing maintenance and running costs. It would also increase the marketability and value of the lodge.

## **8. Finance**

If the property is retained, we would need to identify funding to undertake works to enable it to be re-let. The property is not currently accounted for within the Decent Homes programme and the budget is fully committed. The £13,750 funding requirement to support Decent Homes investment in this property is not available within the One Off Properties Budget 2010/11. Therefore, we would have to wait until 2011/12 for funding to become available to undertake works.

As the property is not currently within the HRA housing portfolio managed by 2010 Ltd, it would be subject to an additional annual management fee and maintenance cost.

As the properties are classified as general fund, the sale would generate an approximate £190,000 capital receipt to support the corporate capital programme.

If the workshops are retained then we would need to identify funding from the cemeteries budget to enable significant repairs to be undertaken. Currently, there is no money within the budget to support this work.

## 9. Risks and Uncertainties

At a time of fiscal constraint and growing pressures upon capital investment budgets, the effective management of empty homes is paramount, in both financial and service delivery terms.

The presence of empty homes produce a negative perception of neighbourhoods and a negative reaction from customers.

The recovery in the housing market is still fragile and there is no guarantee of a successful sale, should properties be presented to the market for disposal. However, the recent successful disposal of similar properties by the Council, such as 28 Nelson Street, Clifton, suggest an active market interest in acquiring such properties for investment and the property is in an exclusive well sought after area.

If the properties are retained then we would need to identify funding to undertake urgent works to prevent health and safety risks.

There is no funding within the cemeteries budget to support approximately £10,000 repairs which are required within the workshops and garages if they are retained.

## 10. Policy and Performance Agenda Implications

Timely decision making with regard to investment in empty homes will contribute towards empty homes performance indicators, void rent loss performance and support increasing demand.

This proposal is making effective use of assets and managing them to best effect. It contributes to the sustainable neighbourhood's agenda by addressing identified housing issues.

The proposal contributes towards our key corporate strategic themes of:-

- Rotherham Proud
- Rotherham Safe
- Rotherham Alive
- Fairness
- Sustainable Development

These key themes are reflected within the Individual Well-being and Healthy Communities outcome framework, as follows:

- Improved Quality of Life – by creating opportunities for an improved quality of life, by dealing with empty homes and stimulating investment in the built environment (Objective 6)
- Economic well-being – providing affordable high quality housing options, to meet identified needs and create sustainable neighbourhoods
- Safe – by creating neighbourhoods that are safe, clean, green and well maintained with well-designed, good quality homes and access to local facilities.

The key investment themes within the LIP are:-

- New homes – supporting delivery of housing opportunities in the Borough to meet current and future needs and aspirations.
- Economic recovery – delivering investment activity which supports the recovery and stimulates local economic growth, sustaining businesses and jobs and training opportunities.
- Renewal – continuing the transformation of the Borough.
- Sustainable communities – ensuring that our communities are safe and healthy and benefit from the range of essential services and provision that they need.

These key investment themes align with the Councils Corporate Priorities of:-

- Making sure that no community is left behind.
- Helping to create safe and healthy communities.
- Ensuring care and protection are available for those people who need it most.
- Providing quality education, ensuring people have the opportunity to improve their skills, learn and get a job.
- Improving the environment.

### 11. Background Papers and Consultation

Valuation advice has been received from the Land and Property Team, Asset Management.

- Cabinet Member for Housing and Neighbourhoods, 15.2.10, Minute No: J138.

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<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet Member for Safe &amp; Attractive Neighbourhoods</b>
<b>2.</b>	<b>Date:</b>	<b>18<sup>th</sup> April 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Charging for Housing Act 2004 Enforcement</b>
<b>4.</b>	<b>Directorate:</b>	<b>Neighbourhoods and Adult Services</b>

## **5. Summary**

The Housing Act 2004 makes provision for a Local authority to make a charge for the service of enforcement notices. This report recommends that this discretionary power is adopted with the effect of introducing a charge for specific private sector housing enforcement action carried out by the Safer Neighbourhood's Community Protection Unit.

## **6. Recommendations**

**It is recommended that Cabinet Member for Safe and Attractive Neighbourhoods;**

- 6.1 supports and makes recommendation to Cabinet to introduce a charging system under Section 49 of the Housing Act 2004 with respect to the service of Improvement Notices, Prohibition Orders, Emergency Remedial Action, Emergency Prohibition Orders and Demolition Orders**
- 6.2 notes that notices are only be served in accordance with the principles of the Enforcement Concordat and the Council's General Enforcement Policy**
- 6.3 approves amendment to the General Enforcement Policy with the introduction of section 3.7**
- 6.4 agrees to Owner Occupiers being exempt from the proposed charging regime**
- 6.5 supports the introduction of the charging system with effect from the 1<sup>st</sup> July 2011**

## 7. Proposals and Details

7.1 The Housing Act 2004 ('the Act') came into force in April 2006. Within the Act, section 49 gives local authorities the discretion to charge for the service or making of enforcement notices listed as follows;

- Improvement Notices (requiring that works be carried out).
- Suspended Improvement Notices (as above, but the operation of the notice delayed until a specific event occurs e.g. a vulnerable person moves into the property).
- Prohibition Orders (restricting the occupancy of a property).
- Suspended Prohibition Orders (as above, but the operation of the notice delayed until a specific event occurs (e.g. the current occupier is re-housed)).
- Hazard Awareness Notices (advising an owner of a risk, but not requiring remedial action or restricting the occupancy of the property).
- Emergency Remedial Action (works of improvement in very urgent situations).
- Emergency Prohibition Orders
- Demolition Orders

The Act provides that the following type of activity on the part of the Council, may form the basis for any imposed charge (although these vary with the notice option being considered):

- Determining whether to serve the notice.
- Identifying any action to be specified in the notice.
- Serving the specified notice.
- Reviewing a Suspended Improvement Notice or Suspended Prohibition Order (a review must be undertaken within a year of service, and subsequent reviews at intervals of not greater than one year thereafter).

To date, the Council has not adopted this provision as it was viewed prudent to identify good practice across local authorities, in both imposing and recovering this charge, before adoption was considered. The most recent survey undertaken in 2008 by the Chartered Institute of Environmental Health indicates 45% of responding Local Authorities had adopted the charging provision. It is now felt that adequate guidance is available to develop systems and procedures making charging a practical option.

7.2 Landlords within the private rented sector have a legal responsibility to maintain their properties in a good state of repair and free from hazards to their tenants. Where a landlord fails in this duty, the Council then has a duty to take action to require that the landlord improves the property to remove or reduce hazards.

The Council's Safer Neighbourhood Unit is responsible for responding to all housing related complaints from private tenants, who have difficulty asserting their legal rights through their landlord. They also deliver proactive housing assistance and enforcement in areas of highest housing need.

In achieving compliance the Safer Neighbourhood team uses a wide range of formal and informal actions which comply with the Enforcement Concordat and Council's General Enforcement Policy. The principles being that, in taking enforcement action, we follow clear and simple procedures and standards which are transparent, helpful, consistent and proportional underpinned with a clear procedure for complaints. Proposals for charging for enforcement need to be consistent within these principles.

- 7.3 The standard procedure when there is a serious contravention of the Act (and informal approaches to the landlord have failed) an officer will serve a legal notice requiring remedial action to be taken. The process follows that, where a landlord fails to comply, the Council may instigate proceedings against the landlord and/or do the works in default and recover costs.

It is in these situations, where a landlord fails to respond to initial, informal approaches to comply with their duties, that the statutory process required to further the enforcement process becomes complex and time consuming. It places a considerable burden on officer's time, which then affects their ability to respond to other clients and also may provide a negative experience to the tenant and their perception of the Council's speed of being able to solve the issue.

At the present time, a landlord can extend the period that a tenant has to suffer poor housing conditions by waiting for a notice to be prepared and served without any penalty or loss. If a landlord finally complies with the notice before it expires, they do not commit an offence and thus the time committed to gaining compliance by officers is unrecoverable.

The Act acknowledges this, and section 49 gives local authorities the discretion to charge for the time in the preparation and service of enforcement notices.

If the charging for the specific enforcement actions is adopted, the ability to recover a charge for the time devoted to preparing legal notices is found to deter landlords from ignoring issues when initially advised of hazards at their properties. In doing so this will reduce the time tenants live with the defect and the number of instances where officers have to prepare full legal notices. This will release officer time and improve productivity, whilst benefiting the tenant.

- 7.4 It is proposed that the Council start to charge for the following forms of enforcement under the Housing Act 2004:

- Improvement and Suspended Improvement Notices (sections 11, 12 and 14).
- Prohibition and Suspended Prohibition Orders (sections 20, 21 and 23).
- Emergency Remedial action (section 40).
- Emergency Prohibition orders (section 43).
- Demolition Order (section 265 Housing Act 1985).

It is not proposed that there is a charge for Hazard Awareness Notices, as these are an advisory notice and no formal action can be taken should the recipient fail to comply with this.

Housing Notices under the Act can be served on owner occupiers, though this is rare. Serving notices on owner occupiers may be a duty in some cases and can be a useful tactic in others, to protect both the home owner and the Council. As there is a commercial distinction between a landlord who operates his properties for profit and an owner occupier, it is proposed that where a notice is served on an owner occupier, they be exempted from this charge under section 49 of the Act. This would not affect recovery of costs in any further legal action should it be required.

- 7.5 It is proposed that the level of charge be based on the requirements of the Act, (described in 7.1), and specific to the officer time involved in the preparation of the individual notice. This will require changes in our procedures to allow for time recording whilst enforcement notices are being prepared. This change will not have any financial implication, but it is recommended a system development period is allowed before introduction. An introduction date of the 1<sup>st</sup> July 2011 is proposed.

The charging regime requires that there is no fixed charge and, as a result, the charge will vary from case to case. This is a reasonable and fair approach, consistent with the Enforcement Concordat, as preparing notices for a property with multiple hazards is more time consuming than for a single hazard. It is also in line with best practice as Councils must prove the 'reasonableness' of any fee charged on a case by case basis. In addition, the Housing Health and Safety Rating System Enforcement Guidance, though not the Act, suggests authorities should take account of the personal circumstances of the person or persons against whom the enforcement action is being taken. The degree to which authorities consider personal circumstances is at their discretion, having regard to the resources available to them. This leaves room for a suitably delegated officer to take exceptional circumstances into account to vary or quash a charge.

In accordance with the principles of the Enforcement Concordat landlords will be advised of this potential fee in all enforcement orientated correspondence. Also, the Enforcement Policy will be amended to advise clients and officers when this fee will be applied. The amended General Enforcement Policy (new section 3.7) is provided in Appendix 1.

It is further proposed, that an illustrative fee of £400 (based on the cost of preparing the average Housing Act Improvement Notice with a disclaimer that the actual cost of notices in specific cases may vary) be included. In all but cases of imminent risk, the Landlord will be contacted and offered an opportunity to comply before a notice is served. In cases of imminent risk, an attempt will be made to involve the landlord before service of notice, but if a landlord cannot react quickly enough, or cannot be contacted, notice will be served and the charge incurred.

The recipient of the notice has the right to appeal against the notice and the charge to the Residential Property Tribunal. A tribunal may make an order to reduce, quash or require repayment of any charges made.

### **8. Finance**

- 8.1 It is important to note that the aim of the enforcement activity carried out by the Council to improve the quality of the housing across the district and protect tenants; however as a consequence of this proposal, there is the potential for an increase in the income generated by the team through enforcement activity.
- 8.2 Councils, however, are required not to use section 49 as an income generating tool. Only justified notices which comply with the Enforcement Policy may be served and any charge made, must accurately reflect the Councils costs in preparing that notice.
- 8.3 Recovery of the fee will be via established sundry debtor arrangements and the charge in cases of non payment may be placed against the property as a local land charge.
- 8.4 In the year 2009/10, 61 relevant notices were served, it is anticipated that the charge itself will prompt landlords to react more quickly, reducing the number of notices required to be served. As an illustration, if we assume a 50% reduction in notices served, 30 notices at an average cost of £400 would produce an income of £12,000.

### **9. Risks and Uncertainties**

- 9.1 Section 49 of the Housing Act 2004 gives the local authority the discretion to charge for the service of notices. There is no maximum limit to the level of the charge however the charge must be justifiable and reasonable. Section 49 (6) provides that the appropriate national authority may impose a limit through regulation at any time. Further to this, guidance recommends that consideration of the personal circumstances of the proposed recipient of the demand for payment should be considered – there may be circumstances which result in a reduced charge or no charge being made at all. This discretion will be embedded in approval procedures.
- 9.2. The recipient of the notice has a right to appeal against the notice and the charge. A tribunal may make an order to reduce, quash or require repayment of any charges made.
- 9.3 Charging for notices must not be seen as a potential source of generating income. Enforcement action must only be taken where it is appropriate to do so. The Council is at risk of being challenged where a disproportionate number of notices have been served inappropriately to generate income.
- 9.4 The current delegation of Council powers to the Director of Housing & Neighbourhood Services with respect to the Housing Act 2004 cover the introduction of the charging regime.

## 10. Policy & Performance Agenda Implications

10.1 This item is aimed at improving the efficiency of Rotherham's housing enforcement, having regard to available resources and thus improving the lives of private tenants. Alignment with Community Strategy and the Corporate Plan is clear from Rotherham Safe. Effective housing enforcement is clearly an important aspect to the Corporate Plan's goals of;

- Ensuring care and protection are available for those people who need it most
- Helping to create safe and healthy communities.

This especially the case to achieve our aspiration that people are able to live in decent affordable homes of their choice and by that directly contribute to the delivery of the Housing Strategy.

In addressing the Community Strategy's "Rotherham Safe" objectives the following key strategic actions are delivered;

- Aiding the development of a sustainable housing stock.
- Increase satisfaction with local neighbourhoods.
- Making the connection between national and local strategies.

10.2 Effective housing enforcement has clear linkages to the Outcomes Framework for Social Care, and importantly includes:

- **Improved Health and Emotional Well-being**, by promoting and facilitating the health and emotional well-being of people who use the services.
- **Improved Quality of Life**, by supporting independence of people to live a fulfilled life.

## 11. Background Papers and Consultation

- Housing Act 2004.
- Statutory Instrument 2006 No. 373 Office of the Deputy Prime Minister Guidance, Housing Health and Safety Risk Assessment System, Practitioners and Enforcement Version 2.
- RMBC, Housing Strategy 2010.
- RMBC, General Enforcement Policy.
- 2011-14 Housing Strategy 'Building Better Homes and Lives'.
- Consultation with Legal & Democratic Services.

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# General Enforcement Policy

## 1.0 INTRODUCTION

This General Enforcement Policy is at the core of our commitment to best practice and sets common principles that we will follow in all our enforcement work. Because we need to ensure consistent performance across a broad range of duties, we will produce additional guidance documents or procedures that are linked to this overall policy.

## 2.0 WHAT IS ENFORCEMENT?

Enforcement is designed to make sure that legal requirements are met and it is carried out against a background of rules and powers. It does not just mean taking formal action, such as prosecution, but includes checking to make sure that things are as they should be and giving help or advice.

We recognise that most business owners, their employees and the public want to comply with the law. We will assist and advise wherever possible but will take firm action against those who disregard legal requirements or act irresponsibly.

To carry this out we may –

- Carry out inspections
- Investigate complaints
- Examine goods, documents or notices
- Test equipment or goods
- Take samples or make test purchases
- Watch and listen
- Talk to witnesses
- Ensure development is properly constructed and laid out
- Conduct interviews

In order that we can see things from the point of view of a customer or ordinary member of the public we may carry out informal visits and not introduce ourselves. Where we have to use a young person to carry out work on our behalf, such as in attempting to purchase age restricted products, we will always give consideration to the latest Code of Best Practice. Children will be instructed to answer any questions truthfully including their age.

Where appropriate we will –

- Give verbal or written guidance
- Give written instruction
- Send a cautionary letter or notice
- Serve a formal notice such as an improvement notice or prohibition notice
- Carry out “works in default” and make a charge where a notice has not been complied with for example for building repairs or removal of rubbish
- Seize goods or documents
- Carry out a formal interview
- Issue a formal caution
- Issue fixed penalty fines
- Suspend or revoke a licence
- Prosecute offenders
- Negotiate remediation

### **3.0 ENFORCEMENT CONCORDAT**

We have adopted the Government’s Concordat on Good Enforcement and commit ourselves to the following aims and procedures:

#### **3.1 Standards**

We will consult with business and the public about our Enforcement Policy and the services we provide. We will draw up clear standards setting out the level of service and performance that our customers can expect to receive. We will publish these standards and report on our annual performance against them.

#### **3.2 Openness**

We will provide accessible information and advice, wherever possible in plain language, on the legislation that we enforce. We will be open about how we set about our work, any charges for our services, or why it may be necessary to take enforcement action.

#### **3.3 Helpfulness**

We believe that prevention is better than cure and we will actively work to advise and assist in compliance with the law. Our staff will be courteous and efficient,



identify themselves by name where appropriate, and carry an identity card. We will offer a contact point and telephone number for any further help.

### **3.4 A Balanced Approach**

We will work with our customers to help them meet their legal obligations without unnecessary expense. Advice will be put clearly and simply, confirmed in writing on request, explaining what is necessary, why and over what timescale. Legal requirements will be clearly distinguished from best practice advice. We will ensure that any enforcement action we take or remedial action we require is in reasonable proportion to the problem.

### **3.5 Consistency**

We will carry out our duties in fair and consistent ways. We have arrangements in place to promote consistency, including liaison with other Local Authorities and agencies, particularly where we may share an enforcement role.

### **3.6 Suitable Action**

Every case is unique and must be considered on its own facts and merits. However, when making decisions we take account of the advice set out in the Director of Public Prosecution's, Code for Crown Prosecutors. These are some of the general public interest principles that apply to the way in which we approach each case -

- The seriousness of the alleged offence;
- Relevant past record;
- The willingness to prevent a recurrence of the problem or put right the harm;
- Whether the offence was carried out deliberately or with reckless disregard of the law;
- The views of any complainant and other parties with an interest in the case.

*(Note: These factors are not listed in order of significance and are part of an overall assessment.)*

Before we take formal enforcement action, there will be an opportunity to discuss the circumstances of a case, unless immediate action is required (e.g. to prevent destruction of evidence, or where there is an imminent risk to health and safety or the built or natural environment).

Where immediate action is taken, reasons for such action will be given at the time and confirmed in writing, in most cases within 5 working days and in all cases within 10 working days.

Where there are rights of appeal against formal action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

### **3.7 Charging for Enforcement Notice.**

Where the responsible person has failed to respond once a breach of legislation has been brought to their attention or the breach is so severe as to present an imminent risk formal action will be initiated. Where legislation allows, and the Council has adopted powers, the responsible person will be charged a fee which reflects the officer time and ancillary costs involved with the preparation of a formal notice.

We will advise the responsible person of the potential of being charged for formal enforcement notices before any charge is incurred, unless the situation is an emergency. In emergency situations officers will make reasonable efforts to contact the responsible person. If the responsible person cannot be contacted or cannot respond quickly enough, formal action will be initiated and a charge made.

Where there are rights of appeal against the charge, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

### **3.8 Human Rights**

We will give consideration to fairness, individual's human rights and to natural justice, in all aspects of our enforcement work.

### **3.9 Equal Opportunities**

We adopt the Stephen Lawrence Inquiry Report definitions of racism, racist incident and institutional racism.

We believe in openness and equality in the way we provide services to members of Rotherham's community and that every individual is entitled to dignity and respect. When making enforcement decisions we aim to ensure that there will be no discrimination against any individual regardless of culture, ethnic or national origins, gender, disability, age, sexual orientation, political or religious beliefs, socio-economic status, or previous criminal conviction or caution which is not relevant to the current issue.

We understand that some members of the community may have specific difficulties, which will need extra advice and assistance. Careful explanation will be given and if necessary the services of an interpreter may be used. Appropriate translated material will be arranged or practical help provided for people with impaired hearing, vision or other impairment.

### **3.10 Complaints about the standard of our service**

All complaints will follow the Council's formal complaints procedure. An information leaflet, which explains the process, is available at all Council offices.

## **4.0 REVIEW**

As part of our service planning and review process, checks will be carried out at least once each year to make sure that this policy continues to reflect best practice and to see how well we are meeting our commitments. The result will be reported to senior managers, Elected Members and to the public.

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:-</b>	<b>Cabinet Member for Safe and Attractive Neighbourhoods</b>
<b>2.</b>	<b>Date:-</b>	<b>18<sup>th</sup> April 2011</b>
<b>3.</b>	<b>Title:-</b>	<b>Home Office Consultation re: More Effective Responses to Anti-social behaviour</b>
<b>4.</b>	<b>Directorate:-</b>	<b>Neighbourhoods and Adult Services</b>

## **5. Summary**

The Government is holding a consultation on reforming Anti-Social Behaviour (ASB) legislation, consolidating and simplifying various tools and powers, including the removing of Anti-Social Behaviour Orders (ASBO's) in England and Wales and replacing them with a range of measures to combat ASB.

The document was published by the Home Office on Monday 7<sup>th</sup> February 2011 and the consultation period ends on 3<sup>rd</sup> May 2011.

It has been agreed that there will be a corporate response from the Council to these proposals and to that end local consultation has taken place to identify areas of concern and support to be fed back to the Home Office.

In line with new corporate reporting protocols on Government consultations this consultation is assessed as being "service specific" and, therefore, requires Cabinet Member and associated Scrutiny Panel consideration. Accordingly the report will be considered at the Democratic and Renewal Scrutiny Panel meeting scheduled to be held on the 21<sup>st</sup> April 2011.

## **6. Recommendations**

**It is recommended that Cabinet Member for Safe and Attractive Neighbourhoods notes the detail of the report and confirms, subject to consideration of comments raised by the Democratic Renewal Scrutiny Panel, the contents as the corporate response for RMBC to the Government consultation**

## 7. Proposals and Details

Antisocial behaviour despite local success in Rotherham in reducing the level of complaint (8% percentage drop (1,071 less reporting of incidents) continues to be an area that both individuals and local communities have concern. This is recognised within the recent analysis presented in the Safer Rotherham Partnership's Joint Strategic Intelligence Assessment and which has resulted in ASB being prioritised by the SRP as an area which will get focused attention by both the Joint Action Group and local Neighbourhood Action Groups and Safer Neighbourhood Teams.

In dealing with ASB in Rotherham we have ensured that we have combined key strategic elements so that we are addressing both local and Borough wide concerns. These activities, including preventative work, community communication, and rehabilitation have been under-pinned by collaborative and effective use of the range of enforcement tools and powers.

The Coalition Government have announced plans to reform the enforcement & broader response "toolkit" available for tackling anti-social behaviour. The Home Secretary's announcement in July last year that she intended to abolish Anti-Social Behaviour Orders (ASBO's) attracted a lot of media attention. This consultation makes it clear that ASBO's may go, but they will be replaced with other tools, some of which do not look very different from those tools and powers that exist now. However, the consultation does signal an intention to simplify and streamline these along with a commitment to increasing flexibility at the local level and reducing central prescription.

Local consultation on these proposals has taken place centered around the existing multi agency partnership which sits as the current ASBO panel in Rotherham and includes amongst others, Community Safety Unit, South Yorkshire Police, RMBC Anti Social Behaviour Unit, Legal Services, Youth Offending Team, Family intervention team, Neighbourhood Crime and Justice Manager and in addition 2010 Rotherham Ltd and Public Protection management.

The consultation document suggests, amongst other things, that ASBO's and "other court orders introduced to deal with anti-social individuals" be abolished and replaced with the following tools which are discussed in further detail in Appendix 1.

- **Criminal Behaviour Order;** Issued by the courts after conviction. The order would ban an individual from certain activities or places and require them to address their behaviour.
- **Crime Prevention Injunction;** Designed to nip bad behaviour in the bud before it escalates.
- **Community Protection Orders;** Place-specific orders, bringing together a number of existing measures.
- **Police "direction" powers;** Provides the ability to direct any individual causing or likely to cause crime or disorder away from a particular place and to confiscate related items.
- **Informal tools and out-of-court disposals;**
  - **Informal Tools;** Informal tools such as warning letters and Acceptable Behaviour Agreements

- **Restorative Justice**
- **Out-of-court Disposals;** Out-of-court disposals, such as cautions, conditional cautions and penalty notices for disorder (PNDs)
- **Community Trigger;** A proposal “to give people more power to shape the way the police and other agencies respond to the issues that matter in their area

A comparison between the existing raft of existing ASB Tools and Powers and the above new enforcement direction are presented in summary at Appendix 2.

In addition to the consultation on the changes in enforcement etc powers the consultation paper also provides an insight to government policy direction in relation to;

- **Changes to the recording of ASB;** The current 14 categories reduced to 3 ('environmental', 'nuisance' and 'personal').
- **Focus on identifying vulnerable victims;** To enable appropriate response to reduce the risk of harm.
- **Commitment to introduce a cost effective national '101' number** as a single route of reporting non-emergency incidents.
- **Enabling communities to get involved;** supporting projects such as 'Volunteer Street Patrols' and a 'Community Safety Accreditation Scheme'

## 8. Finance

At this stage the financial implications for RMBC are unknown. Should the proposals become reality there is a risk costs could increase in respect of obtaining the various orders through the courts should the numbers applied for increase substantially due to the ease and speed of the new process. It is accepted that any increase in costs will have to be absorbed by the Council and Partners within existing budgets.

Also the need to have positive activities and services available for those subject to the various orders could have financial implications for Local Authorities and other agencies.

## 9. Risks and Uncertainties

The new legislation will naturally raise issues around understanding and practical application of the new tools and powers by both RMBC staff and partner agencies allied to publicity informing our communities of the changes, together with the following:

- Failure to effectively tackle ASB is likely to have a detrimental effect on the reputation of the Council and that of our partners. It is essential that delivery matches expectations of our communities.
- The speed of transition to the new arrangements will be an issue depending upon the level of partnership agreement required to realise new policies and procedures and to have a agreed consistent approach.
- It is believed by practitioners that it is essential to maintain our joint Police/ASBU enforcement 'team' capability and approach. Current indication is that the Police Officer secondments for 2011/12 are not assured.

## 10. Policy and Performance Agenda Implications

The ASB Strategy impacts on all agendas around the Community Strategy's SAFE theme and is both a national and Safer Rotherham Partnership priority. There is clear linkage with the objectives of the Corporate Plan;

- *helping to create safe and healthy communities, and*
- *ensuring people feel safe where they live, particularly that Anti-Social behaviour and crime is reduced and people from different backgrounds get on well together.*

Tackling Anti Social Behaviour is a key priority for the coming year as set out in the RMBC Corporate Plan along with the Safer Rotherham Partnership and South Yorkshire Police and agreed in the Joint Strategic Intelligence Assessment (JSIA) for Rotherham. In addition following the outcome of the consultation the following actions are likely to be required:

- The existing anti-social behaviour strategy and policy documents will require some updating.
- The Statutory Policy & Procedures of the Council with respect to its housing management function will require amendment
- The existing joint RMBC/South Yorkshire Police 'ASBO' protocol will need to be replaced with a new protocol in line with the new legislation.
- Also there is likely to be some impact on staff demand and time particularly by legal services, the anti-social behaviour unit team and Community Safety Unit.

## 11. Background Papers and Consultation

More Effective Responses to Anti-Social Behaviour - Home Office, Consultation

**Contact Name:-** Steve Lavin, Community Safety Officer, 01709 (2)55009,  
[steve.lavin@rotherham.gov.uk](mailto:steve.lavin@rotherham.gov.uk)

## **Proposed Response to the ASB Tools & Powers Consultation.**

### **1. Criminal Behaviour Orders**

Issued by the courts after conviction. The order would ban an individual from certain activities or places and require them to address their behaviour.

It is envisaged that this will be a civil order available on conviction for any offence (This will replace the ASBO on conviction). It would be additional to the court's sentence and available in all criminal courts for anyone over the age of criminal responsibility (10 years of age).

It will allow the court to impose a range of prohibitions or positive requirements, with the aim of preventing future anti-social behaviour allied to addressing any underlying causes of their behaviour.

The prosecutor would apply for this normally, though courts could impose one at their discretion. Breach of the order would be a criminal offence with a maximum sentence of 5 years in custody.

#### **Response:**

***In general terms there is little change in this proposal to the existing arrangements. It is felt it would be useful to ensure that there is a minimum term of 2 years and no maximum term for adults and no minimum term for juveniles and a maximum term of 2 years. There should be an inbuilt review process at the half way point or 12 months whichever is the longer.***

***There are potentially financial implications for the Local Authority in providing a response to court requirements for positive activity such as youth services/ sporting activity/ Family Intervention Teams and so on.***

### **2. Crime Prevention Injunctions**

Designed to nip bad behaviour in the bud before it escalates. The injunction would carry a civil burden of proof (on the 'balance of probabilities' rather than 'beyond reasonable doubt'), making it quicker and easier to obtain than previous tools.

The aim is to create a purely civil court order that agencies can secure quickly to stop an individual's anti-social behaviour and protect victims and communities. It could also include both prohibitions and positive requirements (This will replace the ASBO, ASBO injunction, Intervention Orders and Individual Support Orders).

To secure a Crime Prevention Injunction, the applicant authority would have to prove to the court 'on the balance of probabilities' that an individual was engaging, had engaged or was likely to engage in anti-social behaviour to one or more persons not of the same household. Hearsay evidence would be permitted, as would the use of professional witnesses. The injunction would include prohibitions on the individual's future behaviour and could also include positive requirements to ensure the individual addressed underlying problems.



Response:

***There are substantial similarities with this and the existing ASBO and this is where the Local Authority is able to make an application along with the Police and Registered Social Landlords.***

***It is recommended that the test used by the court should be similar to the one currently used for injunctions, being 'conduct causing or likely to cause a nuisance or annoyance to a person not of the same household as him/herself'.***

***The proposal to include 'likely to engage in anti-social behaviour' needs some clarification to be clear that the injunction can be used as a preventative measure before harm is actually caused. This would be a welcome option.***

***It is felt that District Judges are more experienced at dealing with these types of cases and the experience in Rotherham has been superior in the County Court and this is the recommended venue for adult cases.***

***Alternatively it is felt that the youth court is the appropriate venue for the under 18s.***

***The provision of positive requirements is welcomed but raises concerns around funding of appropriate schemes/projects available in localities and how these would be policed. It would be useful to identify some examples of recommended positive activity.***

***The argument put forward by the Government that ASBO's have failed is not accepted by practitioners in Rotherham. It is felt that overall the experience in Rotherham has been a positive one and that our ASBO process, which relies heavily on the use of 'Acceptable Behaviour Contracts' has proved over a number of years to be a positive and successful way of addressing the behaviour of young people in particular through a mixture of diversionary and more formal activity.***

***This is supported by our statistics, which for example show that over the last the 12 months we have, as a partnership, issued 94 'ABC's' which subsequently resulted in the application for just 3 ASBO's. This is positive evidence in our view that this approach works.***

### **3. Community Protection Orders**

Place-specific orders, bringing together a number of existing measures. There will be one for local authorities to stop persistent environmental anti-social behaviour like graffiti, neighbour noise or dog fouling, and another for police and local authorities to deal with more serious disorder and criminality in a specific place, such as closing a property used for drug dealing.

It is therefore proposed that the Community Protection Order will have two levels of severity:

**Level 1** – Would be a notice issued by a practitioner in cases of environmental anti-social behaviour requiring the offender to desist from their behaviour and/or make good. (Clearing up litter for example). It is suggested these could also be used as an alternative to noise abatement notices in some cases.

**Level 2** – Local Authority or Police would use this power to tackle significant/persistent anti-social behaviour in a particular place. It could involve imposing restrictions on the use of that space, for example having to keep dogs on a lead.

It would require sufficient evidence of anti-social behaviour being provided to a 'Local Authority/Police Officer of a particular rank. (For example Police Superintendent or Local Authority equivalent).

This could lead in more serious cases to evidence being presented to a Magistrates Court to obtain an order to close premises regardless of tenure. (This would replace a number of orders such as 'dog control orders', 'gating orders', 'premises closure order', 'crack house closure order' and 'designated public place order'.)

**Response:**

***This proposal is seen as being a useful tool for the Local Authority and Police and should replace a number of existing orders, making the process easier and quicker to use and making it possible to provide a timely response to address relevant problems in our communities.***

***It is suggested in the proposals that the 'CPO' would be considered in the first instance rather than use of a fixed penalty notice ( FPN) . A breach of the 'CPO' is a criminal offence which could be dealt with by a 'FPN' or process to Court.***

***Existing statutory nuisance legislation set out in the Environmental Protection Act 1990 remains unchanged which leaves some element of duplication.***

***The inclusion of the ability to close premises 'regardless of tenure' in the legislation is particularly welcomed.***

**4. Police "direction" powers**

Provides the ability to direct any individual causing or likely to cause crime or disorder away from a particular place and to confiscate related items.

- The Anti-Social Behaviour Act 2003 gave the police in England and Wales new powers to disperse groups of two or more people from areas where there is persistent ASB
- The 2003 Act also introduced the power to take home any young person under 16 who is out on the streets in a dispersal zone between 9pm and 6am and not accompanied by an adult
- The Violent Crime Reduction Act 2006 gave a uniformed constable the power to direct an individual aged 16 or over to leave an area – and not return for up to 48 hours - if they believe their presence is likely to contribute to alcohol-related crime and disorder
- Designated Public Places Orders give the police the power to confiscate alcohol in designated areas

A person asked to leave an area under one of these powers has not committed an offence, but refusal to comply is a criminal offence.

It is proposed to combine the most effective elements of these various powers into a single, simpler Police power to direct people away from an area where they are committing or are likely to commit anti-social behaviour.

The Direction power would enable a constable or PCSO to require a person aged 10 or over to leave a specific area, and not return for up to 48 hours. The tests for the issuing officer would be:

- that the individual has committed crime, disorder or anti-social behaviour or is likely to cause or contribute to the occurrence or continuance of crime, disorder or anti-social behaviour in that area
- that giving the direction was necessary to remove or reduce the likelihood of that individual committing crime, disorder or anti-social behaviour in that area

The power could also include **optional** secondary requirements, such as requiring the individual to surrender items (such as alcoholic drinks) contributing to their anti-social behaviour.

The area the individual was required to leave would be defined by the officer issuing the direction. In some cases (e.g. regarding well-known ASB hotspots), this could mean giving the perpetrator a map with the designated area clearly marked, as some police forces do already.

The power could also include the ability to return home unaccompanied young people under the age of 16, subject to appropriate safeguards.

This power would be available to Police Officers and PCSO's only.

**Response:**

***The fact that existing orders will be combined and made simpler to use is welcomed. There are some concerns that young people in particular could be disproportionately subject to this action.***

***There is also concern that a single Police Officer or PCSO could initiate this power and it is felt that it would be beneficial to have some safeguards built into the process which could include:***

- ***The requirement to have the authority of a Police Inspector or above to initiate the power.***
- ***To liaise with the landowner as soon as possible, (NOT for the purpose of initiating the power) for example the Local Authority or Parish Council regarding problems on playing fields. This will ensure the landowners are made aware of the issue and involve them in action to reduce/prevent further problems in the future.***
- ***It would be beneficial to include the option for 'secondary requirements' and to have the ability to take children under 16 home as proposed.***

**5. Informal tools and out-of-court disposals**

Informal tools and out-of-court disposals are an important part of the professionals' toolkit for dealing with anti-social behaviour, offering a proportionate response to first-time or low-

level incidents. One of our objectives in reforming the approach to anti-social behaviour is to make this kind of early intervention more effective, so that fewer people – young people in particular – go onto more serious offending.

### **Informal Tools**

Informal tools such as warning letters and Acceptable Behaviour Agreements (known as Acceptable behaviour contracts in Rotherham) are often used to deal with low-level anti-social behaviour, with one intervention frequently enough to stop the behaviour recurring. ABAs can be used by any agency with perpetrators of all ages and backgrounds and their flexibility enables them to be tailored to the individual circumstances. At the moment, they tend to consist of an agreement between the perpetrator and a practitioner, but some local areas are exploring ways of engaging the community and making them more restorative.

### **Restorative Justice**

The Home Office is working with the Ministry of Justice to make the informal and out-of-court tools for dealing with anti-social behaviour more rehabilitative and restorative. That includes ensuring that community and restorative solutions can be used to address community issues. This will ensure that any disincentives for police officers to use restorative justice methods to deal with community incidents which would be best addressed outside the formal criminal justice system are removed - giving victims a more immediate and proportionate response, as well as saving time and money.

### **Out-of-court Disposals**

Out-of-court disposals, such as cautions, conditional cautions and penalty notices for disorder (PNDs), are intended for dealing with low-level, often first-time offending, where prosecution would not be in the public interest.

The MOJ is examining the use of out-of-court-disposals and has published a Green Paper (Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders) containing a number of proposals for consultation which are relevant to the ASB review.

In relation to adult out-of-court disposals, the Green Paper proposes amending the PND scheme to allow suspects to pay to attend appropriate educational courses as an alternative simply to paying a financial penalty. This will help individuals to understand the harm caused by their conduct and reduce the likelihood of further offending. It also seeks views on simplifying the out-of-court disposals framework by bringing police powers to use simple and conditional cautions in line with their powers to charge suspects.

In relation to under 18s, the consultation proposes ending the current system of automatic escalation of out-of-court disposals for young people and returning discretion to front-line professionals as there are concerns that this has had the effect of escalating young people into court and custody more quickly than would otherwise be the case.

The Home Office are working with the Ministry of Justice (MOJ) to ensure that out-of-court disposals for young people include swift, restorative sanctions with real consequences for non-compliance, as well as encouraging parents to take more responsibility for their children's behaviour.

**Response:**

***These proposals are welcomed. It is believed by practitioners that it is often the informal activity which is most successful in addressing behaviour. We have already highlighted our success with the Acceptable Behaviour Contracts in Rotherham and along with the restorative justice activity we would see this approach continuing.***

***We welcome the proposals regarding the PND scheme and in particular the means of dealing with those under 18 years.***

**6. Community Trigger**

The consultation paper also canvasses the idea of a “Community Trigger” a proposal “to give people more power to shape the way the police and other agencies respond to the issues that matter in their area, particularly those who have experienced sustained, targeted anti-social behaviour”. This would involve the creation of a new duty on Community Safety Partnerships (CSP) to deal with persistent anti-social behaviour suffered by victims or communities. The duty would be triggered by certain criteria. The proposed criteria being that five individuals, from five different households in the same neighbourhood, had complained about the same issue, and no action had been taken; or that the behaviour in question had been reported to the authorities by an individual a minimum of three times and no action had been taken. It is suggested a CSP would be able to reject the complaint if they deemed it to be malicious.

**Response:**

***Overall this is seen as a positive move which gives power to the victim and a means of obtaining assistance where there has been little or no response from agencies.***

***There is clearly a risk of this tool being misused by some people in an attempt to obtain additional resources to address their problem or being malicious. (Though it is proposed that a community safety partnership could reject a complaint in certain circumstances)***

The following actions of wider reform are also included in the consultation document:

**7. Focussing the Police and Partners on what matters to the public:**

- From 1<sup>st</sup> April 2011 the Police are introducing a simpler system of recording incidents of anti-social behaviour. This will see fourteen categories reduced to three- ‘environmental’, ‘nuisance’ and ‘personal’. This should help identify the appropriate response based on the risk of harm to the victim.
- The Government is committed to looking at a cost effective way of introducing a national ‘101’ number as a single route of reporting non-emergency incidents.
- Police data on anti-social behaviour incidents will be published quarterly alongside official crime statistics.

- A national pilot is presently taking place involving eight Police Forces looking at improving the handling of calls from the public about anti-social behaviour and protecting repeat and vulnerable victims.

**Response:**

***All of these actions are universally welcomed and are seen by those dealing with anti-social behaviour as positive moves which will help to improve the quality of service provided to our communities.***

***The introduction of the national '101' number is seen as being particularly important for our communities as a recognised single contact number to report ASB.***

***It is hoped that the national pilot looking at improving handling of calls from the public and protecting repeat and vulnerable victims recognises that Local Authorities play a part in this process in taking calls about ASB and that a shared ASB recording and case management system with the Police would be of great benefit to all concerned.***

**Enabling communities to get involved:**

The Government is also supporting projects such as 'Volunteer Street Patrols' where members of the public provide a visible presence on the streets and a 'Community Safety Accreditation Scheme', which recognises the role of Neighbourhood Wardens, Park Rangers, Security Guards and so on, providing them with training which could lead onto being given limited powers to tackle anti-social behaviour.

**Response:**

***There is a cautious welcome to these proposals, various accreditation schemes already exist, but there are obvious risks in both cases in relation to safety and vigilante aspects. There would certainly need to be an identified 'management' process for these activities to ensure accountability, training and performance issues.***

**TABLE OF COMPARISON BETWEEN THE EXISTING SYSTEM AND THE PROPOSED CHANGES:**

<b>Existing system</b>	<b>Proposed changes</b>
ASBO on conviction	‘Criminal Behaviour Order’ - available on conviction for any criminal offence, and including both prohibitions and support to stop future behaviour likely to lead to further anti-social behaviour or criminal offences. ‘Crime Prevention Injunction’ - a purely civil order with a civil burden of proof, making it much quicker and easier to obtain. The injunction would also have prohibitions and support attached, and a range of civil sanctions for breach.
ASBO	
Interim ASBO	
ASB Injunction	
Individual Support Order (ISO)	
Intervention Order	
Crack House Closure Order	Community Protection Order (Level 2) – a local authority/ police power to restrict use of a place or apply to the courts to close a property linked with persistent anti-social behaviour.
Premises Closure Order	
Brothel Closure Order	
Designated Public Place Order	
Special Interim Management Orders	
Gating Order	
Dog Control Order	
Litter Clearing Notice	Community Protection Order (Level 1) – a notice issued by a practitioner to stop persistent anti-social behaviour that is affecting quality of life in an area or neighbourhood, with a financial penalty for non-compliance, or other sanctions where relevant e.g. the seizure of noise-making equipment.
Noise Abatement Notice	
Graffiti/Defacement Removal Notice	
Direction to Leave	Police ‘Direction’ power – a power to direct any individual causing or likely to cause crime or disorder away from a particular place, and to confiscate related items
Dispersal Order	

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Cabinet Member for Safe and Attractive Neighbourhoods</b>
<b>2.</b>	<b>Date:</b>	<b>18<sup>th</sup> April 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Neighbourhoods General Fund Revenue Budget Monitoring to 28<sup>th</sup> February 2011</b>
<b>4.</b>	<b>Directorate:</b>	<b>Neighbourhoods and Adult Social Services</b>

### **5. Summary**

This report details the projected year end outturn position as at 28<sup>th</sup> February 2011 for the Neighbourhoods department within the Neighbourhoods & Adult Services Directorate compared to both the Original and Revised budgets. The latest position currently shows a projected underspend of (£162k) by the end of March 2011.

The Original Budget for Neighbourhoods of £4,322k was revised at Cabinet on 17<sup>th</sup> November to take into account agreed in-year savings of £272k, to contribute to the Council-wide pressures, leaving a Revised Budget of £4,050k. In addition there were a number of in year x-cutting savings towards savings targets set for management and admin (achieved through the deletion of vacant posts) totalling £152k leaving a final revised budget of £3,897k.

### **6. Recommendations**

**THAT THE CABINET MEMBER RECEIVES AND NOTES THE REPORT.**



## 7. Proposals and Details

The table below shows the summary forecast outturn position for the Directorate against both the Original and Revised budgets.

DIRECTORATE/SERVICE	Original Budget (Net)	Revised Budget (Net)	Projected Outturn to 31 <sup>st</sup> March 2011	Variance from Original Budget Deficit/ (Surplus)	Variance from Revised Budget Deficit/ (Surplus)	Overall % to Revised Budget
	£000's	£000's	£000's	£000's	£000's	%
<b>INDEPENDENT LIVING</b>						
Asylum	0	0	0	0	0	
Housing Access	353	342	341	(12)	(1)	
Housing Choices	273	273	268	(5)	(5)	
Older People's Housing Services	(85)	(185)	(185)	(100)	0	
	<b>541</b>	<b>430</b>	<b>424</b>	<b>(117)</b>	<b>(6)</b>	
<b>HOUSING &amp; N'HOOD SERVICES</b>						
Safer Neighbourhoods	2,564	2,439	2333	(231)	(106)	
Business Regulation	565	396	382	(184)	(15)	
Neighbourhood Partnerships	599	579	539	(60)	(40)	
Neighbourhood Investment	53	53	58	5	5	
	<b>3781</b>	<b>3467</b>	<b>3312</b>	<b>(470)</b>	<b>(156)</b>	
<b>TOTAL</b>	<b>4,322</b>	<b>3,897</b>	<b>3,735</b>	<b>(587)</b>	<b>(162)</b>	<b>(4.16%)</b>

### 7.1 Independent Living (£6k)

Asylum and Older People's Housing Services (see ISS Wardens section below for further detail) are expected to have achieved balanced budgets at year end.

Housing Access is projecting a very small net underspend of (£1k), due to vacancies.

Housing Choices service is projecting a small underspend of (£5k) through maximising the use of grant funding for various projects within Homelessness, and as a result of not recruiting to vacant posts.

The Independent Support Service (Wardens), part of the Older People's Housing Service, has been subject to a full management review. By the end of the financial year, the service will be integrated into the Care Enablement Service within Adult Services. As a result of the large number of staff leaving the service through Voluntary Severance/Retirement and also due to some additional income received this year through Supporting People funding, it is anticipated that this service will achieve a balanced budget by year end.

Cabinet agreed budget reductions of £100k for this Service, which were implemented as part of the in year savings.

## 7.2 Housing & Neighbourhood Services (£156k)

The large number of staff leaving through Voluntary Retirement/Severance has meant that initial pressures of the vacancy factor have been met. However, it has been recognised that the existing level of vacancies, combined with the number of additional staff leaving is having an impact on service delivery. Some recruitment in order to maintain essential services is necessary but it is unlikely that staff will be in place before the year end.

Safer Neighbourhoods (£106k) and Business Regulation (£15k) are both projecting a year end underspend mainly as a result of the large number of staff leaving through Voluntary Severance and also due to the careful controls in place on non essential expenditure. Grant funding has also been fully utilised within Safer Neighbourhoods to reduce pressures on general fund budgets.

Neighbourhood Partnerships service is projecting an underspend of (£40k) due to vacancies and Voluntary Severance.

Neighbourhood Investment Service is projecting a small overspend of £5k as a result of reduced income for Registered Social Landlords against the current budget. This shortfall is as a result of a reduction in the number of Landlords, compared to numbers budgeted.

Cabinet agreed budget reductions of £172k from this Service, which were implemented as a part of the in year savings.

## 7.3 Agency & Consultancy

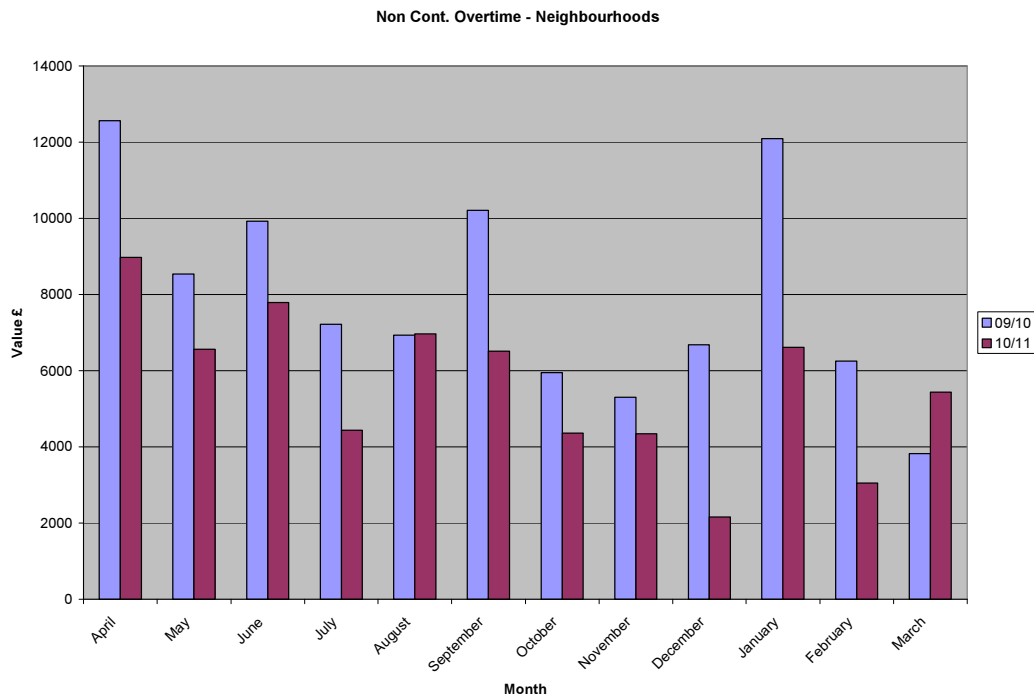
To date there is no spend on either Agency or Consultancy within Neighbourhoods.

## 7.4 Non-Contractual Overtime

Non-Contractual Overtime spend to date is as follows:

Housing & Neighbourhood Services	£ 7,667
Independent Living	£54,086
<i>(£53,957 relates to ISS Wardens overtime to maintain delivery of essential services, the bulk of which was incurred at the start of the year as a result of high levels of sickness)</i>	
<b>Total Neighbourhoods Overtime</b>	<b>£61,753</b>

*Projected overtime for period 12 is included in the graph below.*



## 8. Finance

The financial implications for each service area have been outlined in section 7 above.

## 9. Risks and Uncertainties

These forecasts are based on financial performance to the end of March 2011. The forecast outturn is dependent on delivery of the planned management actions being achieved and thus effective budget monitoring remains essential. Monthly budget clinics are held with the Service Directors to facilitate this.

## 10. Policy and Performance Agenda Implications

The delivery of the Council's Revenue Budget within the limits determined in March 2010 and subsequently revised in November 2010 is vital to achieving the Council's Policy agenda. Financial performance is a key element within the assessment of the Council's overall performance.

## 11. Background Papers and Consultation

- Cabinet February 2010 – Proposed Revenue Budget & Council Tax 2010/11
- The Council's Medium Term Financial Strategy (MTFS)
- Cabinet 17<sup>th</sup> November 2010 – Budget 2010/11
- Cabinet 1<sup>st</sup> December 2010 – Sheltered Housing Warden and Enabling Care Merger

The content of this report has been discussed with the Strategic Director (Neighbourhoods & Adults) and the Strategic Director of Finance.

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SUMMARY											
		PROJECTED OUT-TURN								As at 28th February 2011	
Last Reported Projected Net Variance as at 31/01/2011 £000	Service Division	Net								Revised Projected Year end Variance Over(+)/Under(-) spend	Revised Financial RAG Status
		Original Budget	Proj'd out turn	Variance (Over (+) / Under (-) Spend) to Original Budget	Revised Budget	Proj'd out turn	Variance (Over (+) / Under (-) Spend) to Revised Budget	Current Financial RAG Status	Financial Impact of Management Action		
		£000	£000	£000		£000	£000	£000	£000	£000	* Note
	<b>a) Director of Independent Living</b>										
0	Asylum	0	0	0	0	0	0	0	0	0	
(2)	Housing Access	353	341	(12)	342	341	(1)	Amber	0	(1)	Amber
(5)	Housing Choices	273	268	(5)	273	268	(5)	0	0	(5)	0
0	Older People's Housing Services	(85)	(185)	(100)	(185)	(185)	0	Amber	0	0	Amber
(7)	<b>Total</b>	541	424	(117)	430	424	(6)		0	(6)	1
	<b>b) Director of Housing &amp; Neighbourhood Services</b>										
(46)	Safer Neighbourhoods	2,564	2,333	(231)	2,439	2,333	(106)	Amber	0	(106)	Amber
(15)	Business Regulation	565	381	(184)	396	382	(14)	Amber	0	(14)	Amber
(37)	Neighbourhood Partnerships	599	539	(60)	579	539	(40)	Amber	0	(40)	Amber
5	Neighbourhood Investment	53	58	5	53	58	5	Amber	0	5	Amber
(93)	<b>Total</b>	3,781	3,311	(470)	3,467	3,312	(156)		0	(156)	2
(100)	<b>Total for Service</b>	4,322	3,735	(587)	3,897	3,735	(162)		0	(162)	0

**Reason for Variance(s), Actions Proposed and Intended Impact on Performance**

**NOTES** Reasons for Variance(s) and Proposed Actions  
 Indicate reasons for variance (e.g. increased costs or client numbers or under performance against income targets) and actions proposed to address the variance which produce the revised RAG status

<u>Reasons for Variance</u>	
<u>Profiled Expenditure</u>	
1	The ISS Wardens service originally had an anticipated overspend on salary expenditure which is now being offset by savings made as a result of the large number of staff who have left through voluntary severance/retirement. Expenditure includes approx £307k in severance payments that are to be reimbursed from central funding and projections include an estimated £30k buy out cost for changes to staff hours. Housing Access has a small projected underspend as a result of staffing changes. Housing Choices is projecting a small underspend mainly as a result of the use of grant funding. There is currently a balance of grant funding but it is anticipated that this will be rolled forward to 11/12 if unspent at year end, in order to continue funding of posts within Housing Choices to support Homelessness Prevention.
2	Housing and Neighbourhood services as a whole are currently running with a number of vacancies as a result of vacancy management in 09/10, that have continued into the new financial year. A pressure of £344k as a result of a 7.5% Vacancy Factor for 10/11 was recognised at the start of the year and this will be met as a result of the large number of vacant posts and staff who have left as a result of voluntary severance/retirement. Any surplus at year end is likely to be mainly as a result of this. There is a small shortfall within Neighbourhood Investment area as a result of a fall in income.
<u>Profiled Income</u>	
1	Additional funding has been secured through Supporting People grant which is to be utilised to meet the previously anticipated income shortfall. Housing Choices area secured some additional grant income.
2	Grant income paid in arrears for some projects.
<u>Proposed Actions to Address Variance</u>	
1	Wardens Service projecting a balanced budget after management actions following the merger of the service with the Enabling Care service. £100k has been contributed from this service to the in year savings agreed at The Cabinet on 17th November. There is likely to be a surplus in Housing Choices relating to grant income which may be rolled forward to continue to support posts within Homelessness.
2	Efficiencies throughout the service have been used to offset any potential projected overspends. A large number of vacant posts and increasing number of voluntary severances have contributed to the projected overall underspend. This service area has contributed £172k to the in year savings agreed at The Cabinet on 17th November.
Additional Note:	There is currently £335k (IL) and £196k (HNS) of expenditure relating to Severance Payments within General Fund at the moment. These costs are to be transferred to a specific code and given a budget shortly. Budgets shown above in the Revised Budget column reflect the current budgets after savings agreed at Cabinet on 17th November for Neighbourhoods of £272k in total.