

CABINET MEMBER FOR SAFE AND ATTRACTIVE NEIGHBOURHOODS

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

Date: Monday, 4th July, 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. Service Review - Integration of Community Protection Enviro-Crime/ Enforcement Services (Pages 1 - 11)
Dave Richmond, Director of Housing & Neighbourhoods, to report.
 - to report actions taken to deliver one of the identified areas of saving required by Neighbourhood and Adult Services, that is; the "Integration of envirocrime/enforcement and other enforcement activities".
4. Borough-wide Designated Public Places Order (Pages 12 - 19)
Steve Parry, Neighbourhood Crime and Justice Manager, to report.
 - to report on the review of the need for a Borough wide DPPO that will be utilised to enable an informed decision to be reached by the Joint Action Group (delegated to the Chairs of the Group) on whether the Council be requested to progress the introduction of a Borough wide DPPO.
5. Exclusion of the Press and Public
Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972 (information relating to the financial or business affairs of any person (including the Council)).
6. Replacement of Housing Information Systems. (Pages 20 - 28)

**ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET MEMBER FOR
SAFE AND ATTRACTIVE NEIGHBOURHOODS**

1.	Meeting:	Cabinet Member for Safe and Attractive Neighbourhoods
2.	Date:	4th July 2011
3.	Title:	Service Review – Integration of Community Protection Enviro-crime/Enforcement Services
4.	Directorate:	Neighbourhoods and Adult Services

5. Summary

Proposals for the Council's budget for 2011/12 were agreed at The Cabinet on the 23rd February (minute 169 refers). Within the report to Cabinet it recognised that, to deliver the required efficiencies, while maintaining high service standards, needed the service plans on which the Budget was predicated to be actioned by elected Members and officers.

This report describes actions taken to deliver one of the identified areas of saving required by Neighbourhood and Adult Services, that is; the "Integration of envirocrime/enforcement and other enforcement activities". The required level of saving with the re-alignment of this work activity within Safer Neighbourhoods is £108,000.

The saving has been scheduled over two years (in line with the budget requirements) with;

- a £90,000 full year saving for 2011/12 being achieved and budget accordingly reduced, and
- the further £18,000 saving in 2012/13 being already identified

To deliver the required level of saving a service review relating to the Community Protection Enviro-crime/Enforcement Service has been completed and consultation has taken place in accordance with the prescribed process with staff and unions.

The report describes the outcome of the review, implementation plans and confirmation that required budget saving has been achieved.

Subject to Cabinet Member agreement the implementation of these plans will be integrated with the roll out of reconfigured services as part of the re-integration of Council Housing Management.

6. Recommendations

That cabinet Member

- **Recognises, following consultation, the outcome of the review of the integration of enforcement activities within the Safer Neighbourhoods team, and**
- **Notes the consequent achievement of the efficiency savings for 2011/12 and also for 2012/13 where identified plans for the required revenue budget reductions have been made**

7. Proposals and Details

7.1 Background

In view of the considerable financial challenges faced by the Council, the Cabinet agreed to a series of organisational reviews, one of these is concerned with Enviro-crime and other Community Protection enforcement activities (see Appendix 1). The Cabinet agreed the proposals which included as one of its requirements a saving of £108,000 against this service re-alignment (Minute C169 of 23rd February refers).

The integration of enforcement services has been undertaken not only to achieve the required budgetary reduction, but also to ensure that;

- the service continues to be available to those in our community that are most in need of them
- the skills and knowledge capacity of the enforcement team are maximised
- the service is fit for purpose in the light of current and future anticipated demands

It is widely recognised that the work of Enviro-crime team has been well respected within the council, by the general public and with the local media recognising regularly the success of continued enforcement action. Whilst, however, it is a frontline customer facing service which contributes to many of the priorities of the Council, the functions undertaken are largely discretionary and more than ever we need to focus on core statutory and priority service delivery.

In view of the significant pressures facing the Authority and in order to meet corporate expectations the service needs to reduce its costs. Most of the costs in this service relate to staff. Hence the outcome can only be achieved by reducing the number of posts within the service and by also drawing on the flexibility of other enforcement officers and the Neighbourhood Wardens to maintain local enforcement capacity.

The Anti-social Behaviour Officers within Community Protection Unit were not covered by this review with the function being considered as part of the re-integration of the Council housing management services.

7.2 Principles

The service has been reviewed and a new operating model proposed which is capable of:

- Delivering an integrated local enforcement service for environmental health concerns of both communities and individuals
- Ensuring the service is responsive, effective and action focussed. Making it easier to get things done.
- Reducing handovers; giving staff the authority, training support and tools to tackle problems at the first point of contact, and not passing customers between council departments/services.
- Promoting a clear approach to those issues the council has a responsibility for, and the thresholds that will be applied to determine services.
- Becoming a critical element of locality based services.

7.3 Proposals

The Enviro-crime team comprises of four Enviro-crime Enforcement Officer posts which form part of a complement of 16 fte Enforcement Officers within the Safer Neighbourhoods' Community Protection Unit. A further 7.6 fte Environmental Health Officers take a lead professional role with respect of these functions too.

The overall enforcement team investigate and instigate actions within a legal framework to resolve issues that are fundamental to neighbourhood & environmental quality public safety, and public health protection. The enforcement part of the service investigates and provides appropriate intervention to around 8,000 service requests a year. It also interfaces directly both with other parts of Community Protection (10,000 service requests) and the wider safer neighbourhood partners. The current functions of the Community Protection Unit are shown in Appendix 1.

Although there has been a shift forward, closer working and movement to the taking of wider duties, operationally the current enforcement functions are discharged by officers in distinct "specialist" teams. The principal work activity of the Enviro-crime enforcement team covers the following areas:

- Fly tipping, littering, fly posting and graffiti
- Local community domestic waste disposal
- Waste storage & removal – business premises
- Duty of Care of Waste carriage and disposal

Over the last business year the Enviro-crime team investigated close to a 1,000 reports of fly tipping, waste storage and other environmentally related anti social behaviour with in addition 130 proactive inspections/operations leading to 690 formal warnings and 84 legal proceedings being taken.

To mitigate impact of this service review on both the customer and local communities, an initial review of management and front line support activity in Safer Neighbourhoods has been undertaken. This has identified that 1.5 fte supervision/service support posts can be reduced and this has already been implemented with the posts being removed from the staffing establishment for 2011/12.

The consequence of this means that, as far as possible, front line enforcement activity has been preserved, with the final implementation resulting in the loss of only one Enforcement Officer post in 2011/12 and a further 0.5 fte post in 2012/13.

All of the above loss of posts are accommodated by retirement, voluntary severance or vacancy management.

To compensate for this reduced number of enforcement officer posts it is proposed, with the roll out of the Locality Review, to widen the breadth of enforcement activity by all the Community Protection enforcement officers (Enforcement Officers and Environmental Health Officers) to bring a more holistic working of the team to cover all enforcement themes.

The proposal will also need greater enforcement focus by the Rotherham Wardens – an area of focus already identified from the outcome of the Neighbourhood Warden review and being implemented by the Warden team. Any positive reductions in this service will therefore have a significant impact on the delivery of environmental enforcement.

During the review and, on consideration of consultation response, it was determined that, to ensure the effectiveness of function, Licensing Enforcement would not be integrated into a holistic enforcement role. The alignment of the licensing enforcement function will form part of the considerations of the management review.

7.4 Next Steps

As detailed above, the proposals are deliverable as the loss of posts are accommodated by the retirement and/or voluntary severance of previous post holders with current vacancy management ensuring no requirement for staff to be placed in the Talent Pool or possibly being made redundant.

The two remaining Enforcement Officers currently involved primarily in enviro-crime enforcement activities have been advised of the service change and, following discussion with their Trade Union representative present, are to make the transition to the more holistic Enforcement Officer role. A training/induction plan is being devised to support the change.

It is anticipated that the overall change for the Community Protection enforcement team will take place in line with the implementation of the findings of the Locality Review.

8. **Finance**

The existing Enviro-crime service costs £263,000. The general fund provides £196,666 of this cost with the HRA contributing £49,926 and £16,500 being provided from revenue from prosecutions and legal action.

An overall revenue budget saving of £108,000 is required.

In 2011/12 a £90,000 saving has been achieved by the loss of 2.5 fte posts with an additional £5,100 contribution from the Transport nominal (less Council vehicles are required as a consequence if the service change).

In addition, the Council budget setting requires £18,000 to be met from this review for 2012/13. Financial Services concur that this efficiency target can be achieved by the loss of a 0.5 fte post with a further £6,500 being taken from the equipment and publicity nominals.

An implementation plan to achieve the savings across this and 2012/13 has been developed, agreed and is being closely monitored in delivery.

9. **Risks and Uncertainties**

The impact of the new service re-alignment has been achieved with minimal impact on the numbers of enforcement staff, and whilst there is reduction in capacity it is believed that the Council's ability to deliver its statutory services will not be compromised.

The delivery does rely on the flexibility of the current team and will require training and the development of knowledge in new enforcement areas for all staff. This will be achieved by a structured training/induction programme and the use of the Performance and Development framework. Concerns raised within the consultative process regarding the balance of the "specialist" and the greater "generalist" job role of officers will be dependant of greater sharing of knowledge & effective use of the Performance & Development Review process.

10. Policy and Performance Agenda Implications

Enviro-crime enforcement together with other Community Protection based enforcement activity clearly contributes to the Corporate Vision of ensuring;

“Rotherham is a prosperous place and Rotherham people have choices and opportunities to improve the quality of their lives. Rotherham communities are safe, clean, and green and everyone can enjoy a healthy and active life”

The service fits within existing strategic priorities in Rotherham. In particular the way we deliver our services directly impact on:

- **Helping to Create Safe and Healthy Communities and;**
- **Improving the Environment.**
- **Making sure no community is left behind**

In particular services are delivered to:-

- *ensure people feel safe where they live, particularly that Anti-Social behaviour and crime is reduced*
- *help people from different backgrounds get on well together*
- *helps people to live in decent affordable homes*
- *support a high quality public realm*
- *Ensures the quality of choice of affordable housing continues to improve*
- *Provides opportunities for local people to access employment on capital investment projects*
- *Targets investment into the most deprived neighbourhoods*

The cleanliness of our neighbourhoods remains a priority issue for our communities. The state of the neighbourhood being a key indicator to the vitality and pride of the community. Often such environmental crimes are signals for greater criminal and anti social activity. The Council’s strategy for addressing fly tipping and littering etc is one combining education, responsive cleansing and effective enforcement. The Enviro-crime team has led on latter two of these strategic threads, winning awards and recognition in performance inspections for such educational approaches as the targeted Toxic Campaign and a maintained effective level of enforcement.

In addition to contributing to the Community Strategy’s priority themes of to **Rotherham Safe, Rotherham Alive** by ensuring a place where people feel good, are healthy and active, **Rotherham Achieving** by helping to improve the quality of life in the most deprived communities and **Rotherham Proud** by increasing the satisfaction in the local area as a place to live and putting pride in the hearts of our communities

The services are tailored to deliver not just to the Corporate Plan’s priorities but are focused to work in partnership to make our neighbourhoods and local living environments safer.

11. Background Papers and Consultation

The proposals have been subject to consultation with affected staff and unions. The formal one month period of consultation commenced with staff on the 10th May. Feedback from the team was assessed and incorporated where appropriate. A listing of issues raised by the team (individually and via a staff meeting) together with a response commentary is shown at Appendix 2.

- Cabinet Report: Tackling in year budget pressures (C69 of 23.2.11)
- Cabinet Report: Service Review – Neighbourhood Wardens (147 of 19.1.11)

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Community Protection ; Neighbourhood Standards, Quality & Enforcement

Strategic and operational delivery

- Accumulations of Waste*
- Air quality & Contaminated Land
- Anti Social Behaviour Enforcement (some activity covered by the review)
- Closed landfill management
- Duty of Care of Waste carriage and disposal*
- Enviro-crime; education, campaigning and enforcement*
- Environmental protection*
- Filthy and Verminous homes*
- Land use planning assessment*
- Local Environmental Quality* ;
 - litter, dog fouling, fly tipping, grafitti, fly posting etc enforcement
- Neighbourhood Wardens (SNT co-located)
- Noise control *
- Off-road motor vehicle nuisance (some activity covered by the review)
- Pest Control (some activity covered by the review)
- Pollution Control Enforcement*
- Premises, Taxi etc Licensing enforcement
- Private sector housing enforcement*
- Statutory nuisance*
- Stray dog & Dog Warden Service
- Traveller/Gypsy Land Trespass resolution*

*	Functions affected by the Review
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Feedback Ref. No.	Issue/concern Raised	Response Provided
<p>1. 10/5/11</p>	<p>As your aware the list of areas that we now cover is endless and continues to grow! We are concerned that the breath of knowledge/information that we are required to retain is becoming excessive to the point where no member of staff has specialist knowledge in any area any more. Although the idea of a generic officer may seem appealing as one member of staff 'should' be able to do the work of any other officer in the department I feel that this loss of knowledge/information amongst officers is putting excessive pressure on staff as well as providing the public/businesses etc with a poor service due to potentially being misinformed through lack of knowledge.</p> <p>Is there a reason why we cannot go the other way and specialise officers rather than making everybody generic? I do believe that officers can provide a much better standard and quality of service in this way as they would be fully competent in their area, having confidence in the information/advice that they are providing. The staff we have could possibly be divided up into a small housing team, HMO team, stat nuisance team, permitting team etc. There could also be an option for officers to be rotated into a different area every 12 months or so???</p>	<p>The concerns held do have some merit, however, in advising on the proposals its essential that we go forward to meet some influencing issues. In considering whether we can step up to a wider enforcement function role topics like the ones below spring to mind;</p> <ul style="list-style-type: none"> • Would smaller specialised teams provide the resilience to enable consistent customer service delivery? • Would such teams enable the roll out of locality based working? • Would such teams provide the structure to enable new sub regional working and potential shared services? • Would the efficiency brought by potential multi-factor problems at an address or nearby property? • Would it encourage teams to focus on one issue? • Would customers be passed between the smaller specialist teams? • Would customers actually get a noticeable change in service? • Would customers get potentially multiple contacts? • Would it bring broader work satisfaction across whole of the team? • There is already personal specialist knowledge vested in the team which is sharable but apparently not recognised. Why? • Would it require additional management/supervision support? • Are there areas such as Licensing Enforcement that require focused additional knowledge, more complex legal framework and operational skill mixes which would go beyond the absorbing within the proposals approach? <p>In considering these, the proposal was swayed to the broader role and especially if that is supported by structured learning & skill development. It should be that individual members of the team have the opportunity (or should have) to develop greater levels of "specialist" knowledge and expertise and this really should underpin advice & leadership on the topic across the wider team. This really is led by the EHO's professional background and the career progression of Enforcement Officers. The core skills to deliver across the functions remain – the game to be knowledgeable to deliver the service then comes to PDR and personal commitment to learn and share.</p>

<p>2. 10/5/11</p>	<p>Current Enviro-crime Enforcement Officers have Council vans – in the future this will not be the case. What is planned?</p>	<p>It is planned that the current practice of enforcement staff utilising their own vehicles will be maintained. Consequently the two Enforcement Officers will not be allocated a Council van in the future. Given the change to their circumstance it is proposed that a 6 month period will be given in the withdrawal of the current council vehicle to allow for procurement of their own vehicle. Any bulky or dirty equipment/material will be accommodated by a small number of Council vans pooled for team use.</p>
<p>3. 11/5/11</p>	<p>I couldn't understand why we [ASB Officers] seem to have been taken out of the equation. I know that Dave mentioned that we will be coming under Housing, but what does that actually mean? If we are part of 2010's reintegration with the Council, what does that actually entail? Would there be a re-structure and would we have to apply for our posts.</p>	<p>The scoping of the service review that was started yesterday [10/05/11] is specifically around the integration of Enviro-crime and other enforcement work.</p> <p>It was viewed that the ASB Officer role was one that should not be included but rather in the re-structuring that is being developed to bring Council housing management back in-house. Its been proposed (to be considered and determined at The Cabinet meeting on the 8th June) that all services with close interface with Housing management should be considered in that restructuring - hence, because of the close referral system between Housing Champions and the ASB Officers, its viewed that the service you provide should be included in that process. This will include a consultation of the Housing management proposals following the Cabinet decision.</p> <p>From what Dave was saying on Tuesday [10th May] the current thinking is ensure the ASB Officer job role is closer aligned with the new Housing Department – he did say there was no risk to the ASB jobs. From that there wouldn't be a need for any application for jobs as your job would not be substantially changing.</p>
<p>4. 18/5/11</p>	<p><u>Notes from Staff Meeting held 16/05/11</u></p> <ol style="list-style-type: none"> 1) Clarification needed of what the proposed generic role would encompass. Licensing/off road bikes/ dog wardens/what elements of anti –social behaviour? What would be the different roles of E.H.O`s. and Enforcement staff? 2) There was consensus that specialised roles gave better quality of service for the customer as staff would be well trained and experienced in their role rather than knowledge very thinly spread over even more disciplines. Staff can build up expertise and be confident when addressing customer 	<p>The briefing note circulated does give the scope of the functions covered by the re-alignment – in essence it's the current Enviro-crime and Community protection enforcement activity. It does not cover the job role of ASB Officers, Dog wardens, Off Road Biking. Given the feedback and concerns relating the extent of enforcement activity that can be carried out in a “generalist” setting its viewed that Licensing Enforcement, which is a more should now be excluded from the proposal for full integration and this will be reported to elected members accordingly.</p> <p>One of the key issues coming through is that of “generalist” v</p>

<p>complaints or queries. The current proposal is not looking at the best value for the customer. If Staff knowledge is so stretched the quality of service will go inevitably down. If you went to have heart surgery would you want a throat surgeon to operate on you?</p> <p>3) There were concerns that even more job roles and responsibilities would result in deskilling of existing staff.</p> <p>4) Additional training would be required but there is only so much information an individual can be expected to retain and if some skills are used not used very often these become rusty.</p> <p>5) There was concern that by making all enforcement roles generic, it will be easier for these jobs to be the cut in the future. Eg what has happened to the warden service</p> <p>6) There was concern that E.H.O.'s were not currently meeting their statutory roles in terms of:-</p> <p>a) Environmental Permitting (E.P.A. Processes). There was no individual who felt 100% confident on the inspection and permitting of these processes without having to do a lot or revising before going out on site. It is such a specialised role that officers felt that individual training days do little to address the issue. There is no time to build up knowledge or look into non compliant companies that may be operating outside the regulations and may need control, with the subsequent loss of revenue. Most Councils have a specialist officer for this role.</p> <p>b) Houses in Multiple Occupation. Landlords are currently paying for a licence and are not inspected regularly. Also staff are not actively seeking out unlicensed and unregistered HMOs with loss of revenue</p> <p>7) It was felt that the localities changes do not hinder having specialist roles. e.g. You could have one Housing specialist placed in each area.</p>	<p>“specialist” and the concerns, worries and specifics you may hold are understood. The proposals, however, are very much about getting the all round best value for our customers.</p> <p>The picture on the how we go forward and whether we can step up to a wider enforcement function role was covered yesterday in the meeting between GMB, staff representatives and management and views on the matter have been sent through previously (see Feedback item 1 above). The proposals will ensure</p> <ul style="list-style-type: none"> • resilience via a larger team resource to enable consistent customer service delivery • an infrastructure in the roll out of locality based working • efficiency by one officer dealing with potential multi-factor problems at an address or nearby property • the team to be outside a silo'd thinking • that customers would not be passed between teams • continuation of current service • a one officer customer contact avoiding pass on of requests • wider job involvement for officers <p>From discussions its essential that we need to be really clear on the different job roles too between EHOs and the Enforcement Officers has this matter seems to be causing undue worries. Indeed, despite, tremendous customer praise it is apparent that there feels to be a lack of confidence not only in what the team is delivering but in the ability of individual officers within the team. There is already personal specialist knowledge vested in the team which is sharable but apparently not recognised.</p> <p>Its very apparent that from discussions that the PDR process needs to be improved on a lot to enable the confidence, knowledge and competence from everyone to do the job. Prioritisation of the training needs coming from the current round of PDRs will enable the right development opportunities to be resourced from the training budget and in doing so ensure we have a CPD process firmly in place which will build on self learning and other learning and skill development.</p> <p>The idea of locality teams delivering across the functions with individuals taking on specific specialist knowledge and expertise to help</p>
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<p>8) Training was discussed as a major issue.</p> <p>a) Additional roles require additional training. Existing staff feel that training could be improved in their existing roles. The introduction of a CPD system? (E.P.A. permitting/ HIMO Training / Housing Enforcement /Noise measurement)</p> <p>b) It is a concern that there is no money for adequate training. In house training can not always provide the skills/ up to date knowledge needed.</p> <p>9) The issue of whether management would also have the requisite skills knowledge to guide/help staff in all the areas of expertise. No point having specialist managers and generic staff</p> <p>10) It was felt that it was an advantage to have specialist skills and pass on multi- faceted jobs to other colleagues in the department and share knowledge between colleagues. It was felt that it did not happen very often that a job needed different roles.</p> <p>The initial stages of an investigation is where the background work is carried out, passing this on to another officer makes there job a lot easier e.g. Land reg search.</p> <p>11) It would be good to have the option if staff wanted of swapping roles after working for a year in a specialised role as done in other authorities</p> <p>12) It was raised as an issue that the generic role proposal flies in the face of current E.H.O. training at universities where individuals choose their specialism in their final year.</p> <p>13) The new sub regional working agenda would be helped by specialist roles.</p>	<p>advise and mentor others in the team using all tools and powers available is supported.</p> <p>The use of current and developed skills and knowledge within the team, whether “managers” or staff is essential and as said above, there is a role for the development of individual and specialist in-depth knowledge within the broader generalist arena which will help support and advise colleagues in their own development and service delivery.</p> <p>The CIEH have introduced a last year specialism approach in the qualification of Environmental Health Practitioners (EHPs), however, all EHPs (not just EHOs) still have the ability to pursue a generalist route to give a firm grounding in all the key areas of environmental health such as environmental protection, housing and public health. The CIEH recognise in their introduction of the competency framework that EHPs will need to undertake additional learning and development once working. Again in our own PDR process we need to recognise the development of specialist skills and knowledge embedded within our competency framework to provide CPD – the difference being is that we can still have specialists but working within a more generalist delivery service model.</p> <p>The consideration of shared services at a sub regional or within smaller local authority clusters will develop. The key issue, however, is that the use of such delivery methods must bring efficiency and, importantly, be right for Rotherham. The sharing of services has brought efficiencies in “back office” type activity eg Human Resources and Procurement, but at a recent LBRO Shared Services Seminar it was identified that, from practice, efficiencies introduced in front line services tend to be a lot more limited. Shared services will be a topic to be examined further.</p>
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ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET MEMBER FOR SAFE AND ATTRACTIVE NEIGHBOURHOODS
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1.	Meeting:-	Cabinet Member for Safe and Attractive Neighbourhoods
2.	Date:-	4TH July 2011
3.	Title:-	Borough Wide Designated Public Places Order
4.	Directorate:-	Neighbourhood & Adult Services

5. Summary

Following recommendation from the Safer Rotherham Partnership's Violent Crime Priority Group the Joint Action Group (JAG) is considering the need for a Borough wide Designated Public Places Order (DPPO).

This report reviews the need for a Borough wide DPPO and will be utilised to enable an informed decision to be reached by the Joint Action Group (delegated to the Chairs of the Group) on whether the Council be requested to progress the introduction of a Borough wide DPPO.

Such orders are made under discretionary powers given to local authorities by the Criminal Justice and Police Act 2001 (CJPA) to deal with the problems of anti-social alcohol drinking in public places where alcohol-related anti-social behaviour has been experienced. Once a DPPO is adopted, it remains permanently in force for the designated area.

In such designated areas it is not an offence to consume alcohol, but where such drinking is causing anti social behaviour a police officer, police community support officer or special constable has the power to confiscate the alcohol, including any unopened containers. Failure to comply with an officer's requests to stop drinking and surrender alcohol without reasonable excuse can lead to arrest.

The reason for consideration being given to a borough wide order is in response to several areas across the borough considering individual orders.

6. Recommendations

It is recommended that Cabinet Member given consideration of current national guidance and lack of evidential support agree that;

- 6.1 A Borough-wide Designated Public Places Order is not an proportionate approach for Rotherham , and**
- 6.2 A report reflecting this position be presented to the Joint Action Group of the Safer Rotherham Partnership**

7. Proposals and Details

7.1 Legal Position

Section 13 of the CIPA gives the local authority the power to make an order designating any public place within their area if they are satisfied that nuisance, annoyance or disorder has been associated with the consumption of alcohol in that place.

The Council power to determine and review in line with Government Guidance any Designated Public Places Orders is delegated to the Licensing Board. There is a regulated process to be followed in the adoption of a DPPO; this is summarised together with the subsequent enforcement powers at Appendix 1.

7.2 Requirements for making a DPPO

There is no doubt that alcohol is a contributory factor in anti-social behaviour, criminal damage, nuisance and public place violent crime. It also increases the fear of crime and further deterioration of public areas and acts as a catalyst for an increase in the incidents of alcohol and drug abuse and more serious crimes.

In order, however, to include any public place in a DPPO the local authority must be **"satisfied that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place"**.

The current Home Office Guidance makes the point that the historic/statistical data required in order to support the designation of a public place is not as detailed as that which was previously required in order to justify the making of bye-laws. However, the local authority must go through a process of satisfying itself that the DPPO is justified in relation to any particular public place by reference to past problems of alcohol related crime or disorder or antisocial behaviour in that place.

7.3 Evidential Position

Consultation with Legal Services has confirmed that from a legal perspective the key issue in reaching the decision for any DPPO is the evidence supplied by the Police and, if due process is followed, and the Police evidence is sufficient then any decision in favour is unlikely to be challenged successfully in the Courts.

Although data recording issues make it difficult to establish a true picture of the influence of alcohol on recorded crime and disorder in the borough, previous analysis, from 2009 data (Temporal Analysis(see reference) identified that, in nearly a quarter of all currently detected crime, the accused person was classified as under the influence of drink or drugs. Only 8% of Anti-social Behaviour incidents, however, recorded by SYP could be considered to be alcohol related.

The Temporal Analysis highlighted that the role of alcohol in crime and disorder stretches both beyond the Town Centre and beyond night-time economy violence offences. Other key areas feature across the borough for both alcohol-related crime and ASB. These areas include Wath, Swinton, Brinsworth, Maltby, East Dene and Rawmarsh.

The final Place Survey for Rotherham (2008) did identify that 33% of residents perceived drunk or rowdy behaviour as a problem and at that time perceptions of anti-social behaviour as being a very or fairly big problem was reported at 29%. The latest British Crime Survey (BCS) results show this perception level for Rotherham now standing at c.

14%. The BCS survey is now used as the main survey on which the SRP will gauge performance in this area.

Anecdotally residents would suggest that street drinking is a 'youth' problem but evidence suggests that our street drinking population varies from young disorderly drinkers through to older street drinkers who congregate at venues within the borough to drink together. As such it is unlikely that the enforcement of such a zone will adversely impact on any particular age group.

Action to deal with the harmful effects of alcohol, of which a DPPO is only one element, safeguards children. This proposal aims to encourage responsible drinking and reduce disorder, both of which should positively impact on children. The making of the Order should be seen in the context of the Council's wider Licensing Policy where protecting children from harm is a key objective under the Licensing Act.

From the current evidential base, whilst recognising the link between alcohol and ASB & other crimes, it is difficult to prove that it is the actual drinking of alcohol in public places that is the main cause of anti social behaviour compared to home and licensed premises consumption. That being said, however, there are pockets in the Borough where incidents and perceptions of ASB shown to be linked to the drinking of alcohol in public areas where targeted action is, and has been taken eg DPPOs in the Town Centre and Wath. Given the mixed urban and rural make up of the Borough differences in alcohol misuse can be expected.

It will never be the case that a local authority will have evidence of a history of alcohol related crime/disorder/anti-social behaviour in every single public place included in a borough wide order, however a borough wide order would address the problems of alcohol related crime and anti-social behaviour and identified displacement activity. This is part of the considerations of other local authority areas that have adopted local authority wide DPPOs (research listing Appendix 2)

7.4 Assessment

The Act itself, the regulations governing the making of Orders and the associated Home Office Guidance are all written around the premise that a local authority making a DPPO will identify and include in the Order as designated places, specific localised "trouble spots" within their area.

It is, in practice, never going to be the case that a local authority will have evidence of a history of alcohol related crime/disorder/anti-social behaviour in every single public place included in a borough wide Order, however a borough wide Order is being considered in order to address the problems of alcohol related crime and anti-social behaviour and identified displacement activity.

Borough wide DPPO's are not specifically prohibited by the legislation however the following extract from the Home Office guidance provides advice;

'We would advise caution, as, in order for the DPPO to be proportionate, you need to ensure that there is evidence of alcohol related anti-social behaviour in each and every part of the borough. Any local authority considering a borough wide DPPO will need to satisfy themselves that they can justify their decision by pointing to evidence of alcohol related nuisance or annoyance in each and every part of the borough' (Guidance on Designated Public Place Orders for Local Authorities in England and Wales. (Home Office)

As part of the consideration it should be noted that the proportionality of a Borough-wide DPPO could be the subject of a legal challenge by an individual whereby it would be necessary for the Council to provide justification for the order. Legal Services, based on the summation that there will be parts of the Borough that have never had ASB (let alone it being alcohol related) eg rural areas and smaller villages, have expressed their view that the designating of a Borough wide DPPO would seem highly unlikely.

Describing borough wide orders as not being 'in the spirit of the act' and disproportionate was applicable when the legislation was first introduced and remains the case however, since that time there are now many examples across the country where they are in place.

Recorded alcohol related crime and anti-social behaviour incidents alone cannot in themselves justify the need for a borough wide order. That being said the same has been acknowledged in areas where such orders are already in place. The experience in these areas is that the public are very strongly in favour of such borough wide orders, in that they send out a clear message of the intent of the Police, Council and partners to tackle alcohol related crime and disorder and are less confusing than having a number of individual areas where an order is in force.

A degree of 'professional judgement' is required at this stage of the process, balancing the pros and cons of a borough wide application and Home Office caution in respect of the proportionality of borough wide orders. Following consideration of the issues raised determination is required as to whether progress the matter to RMBC Licensing Board to seek approval of the formal consultation process required to introduce a DPPO.

8. Finance

Costs will be incurred for consultation, legal fees and signage and it is estimated that overall costs will be in the region of £10,000. Consideration could be given to these costs being met through the Safer Rotherham Partnership Community Safety Fund rather than imposing an unbudgeted cost onto the revenue budget of the Licensing service.

9. Risks and Uncertainties

A summary of assessment is provided at Appendix 3.

10. Policy and Performance Agenda Implications

Policy/Strategic Position

RMBC Corporate Strategy – Helping to create safe and healthy communities/Improving the environment

- People feel safe where they live
- ASB and crime is reduced
- People enjoy parks, green spaces, sports, leisure and cultural activities
- Clean streets

The 2009/10 Joint Strategic Intelligence Assessment (JSIA) identified Anti-Social Behaviour, Domestic Abuse, Domestic Burglary and Offender Management as priorities for the Safer Rotherham Partnership with Alcohol, Drug Misuse and Vulnerable Victims as 'cross cutting' themes that would benefit from continued partnership attention.

Crime & ASB position

Crime statistics for the Rotherham area for the year 2010/11 reveal that recorded crime figures totalled 17,325 of which 3,979 were criminal damage and 2,775 violent crimes. As in most other places in the country, Rotherham has seen significant reductions in recorded crime and anti-social behaviour in recent years. Indeed over the last 12 months Rotherham has seen considerable reductions in recorded ASB, with only the town centre showing an increase. In terms of comparison with other South Yorkshire districts Rotherham's ASB rate of 88 incidents/1000 population is 2nd only to Sheffield, with Barnsley being the lowest at 80/1000 population. Across the 21 comparator local authority areas Rotherham is ranked 11th in terms of alcohol related recorded crime.

Based on a number of different alcohol indicators, Rotherham's position is showing improvement, as measured by the Yorkshire and Humber Public Health Observatory (YHPHO).

Alcohol Impact in Rotherham

The JSIA indicates that the misuse of alcohol is not confined to a specific demographic or drinking locations, it is a borough-wide issue. Using the Rush Model, Rotherham's adult population can be estimated to have around 7,000 dependent alcohol users, 10,400 drinking at harmful levels and 51,500 drinking above low risk levels. This does not include any misuse of alcohol by young people.

Misuse of alcohol in Rotherham and the costs incurred through it is an area of concern for the wider partnership. The anti social behaviour that arises from it contributes to the fear of crime, as well as creating areas that are no longer used by the general public. The effect in itself can be a catalyst for further deterioration of an area and for an increasing incidence of serious crime.

There is clear evidence of the impact that alcohol abuse is having on the quality of life of Rotherham residents and the resultant financial demands it is making on the Police, Primary Care Trust, Fire and Rescue Services and Rotherham Borough Council. There is also evidence of displacement of drinking in public places to areas outside of the area covered by the current Designation Orders. (Town centre drinkers moving just outside the current DPPO boundary into Fitzwilliam Road)

11. Background Papers and Consultation

- Criminal Justice & Police Act 2001
- Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007
- Guidance on Designated Public Place Orders for Local Authorities in England and Wales. (Home Office), November 2009
- Designated Public Place Orders; House of Commons Library SN/HA/4606, December 2009
- Rotherham Borough Alcohol Related Crime & Disorder Temporal Analysis 2009.
- Safer Rotherham Partnership Joint Strategic Intelligence Assessment.
- Local Authority Profiles for England – Profile for Alcohol Related Harm for Rotherham; Yorkshire and Humber Public Health Observatory www.nwph.net/alcohol/lape

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DPPO Process & Enforcement

Regulatory Process to Establish a DPPO

Full consultation would need to be undertaken with the public and premises effected by the proposal and the results of this consultation considered prior to making a final decision on the implementation of a borough wide DPPO.

The process to be followed is detailed within specific regulations. The prescriptive process including:-

- consultation with;
 - the Police (who support a Borough wide approach) and potential impact of a DPPO on any minority community/group
 - Licensees of any licensed premises in the proposed Designated Public Place
 - the owners or occupiers of any land identified which may be affected;
- advertising via a legal notice in a local newspaper, identifying specifically the area that the Order will cover, setting out the effect of the Order and inviting representation with 28 days for representations;
- following the making of the Order a further Notice must be placed in a local newspaper identifying the place, setting out the effect and the date of commencement;
- sufficient signs for the public to draw their attention to the place covered by the Order must be displayed by the Council (eg on lamp posts)
- A copy of the Order must be sent to the Secretary of State and Police Commander for the area.

Enforcement

Under section 12, if a Police Constable reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to do so, the Constable may require such a person:-

- Not to consume alcohol in that place;
- To surrender to the Police Constable any alcohol or container for alcohol in his possession.

Failure by that person, without reasonable excuse, to comply with the Police Constable's requirement is a criminal offence. Penalties for this offence include:

- Penalty Notice for Disorder (PND) £50.00; or
- Arrest and prosecution for a level 2 fine, maximum of £500

Borough/City –Wide Designated Public Place Orders

Blackburn & Darwin Borough Council

Burnley Borough Council

Calderdale Council

Camden

Coventry City Council

Erewash Borough Council

Fareham Borough Council

Harrow

Havant Borough Council

Hammersmith & Fulham

Islington

Lambeth

Lewisham

Newham

Northampton Borough Council

Nuneaton & Bedworth Borough Council

Portsmouth City Council

Rugby Borough Council

Sandwell Borough Council

Southampton City Council

City of Westminster

Wigan

Worthing Borough Council

Assessment/Risk of the Introduction of a Borough-wide DPPO

Pro's	Con's
<p><u>In relation to ASB on which a DPPO is based:</u></p> <ul style="list-style-type: none"> • Provides additional powers to police (key partners in the Safer Rotherham Partnership) to deal with those who persistently drink in public places and alcohol related anti-social behaviour. • Overcomes within Borough displacement of public place drinking • Avoids the need for future individual DPPO applications with associated costs and potential confusion over which areas are covered • Provides a consistent approach • Reducing alcohol related litter • The existence of separate orders could lead to. <p><u>Opportunity for communication</u></p> <ul style="list-style-type: none"> • Give a clear message about the unacceptability of anti-social behaviour, consistent with the priorities of the Safer Rotherham Partnership • Provides a simpler communication message with the public including expectations in terms of enforcement activity. <p><u>Links to other non ASB aspects</u></p> <ul style="list-style-type: none"> • Contribute to the range of actions which are being delivered to reduce alcohol misuse. Including reducing; <ul style="list-style-type: none"> ○ disturbances in public places ○ drunkenness in public places ○ the number of street drinkers ○ violent crime in public places ○ fear of crime • Promote a sensible drinking culture within the Borough • Improving the quality of life for residents and visitors to Rotherham. • Combining tactical actions on enforcement with outreach support services 	<p><u>Legal & Guidance Test</u></p> <ul style="list-style-type: none"> • Lack evidence to satisfy that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place (ie across the Borough) • Home Office guidance recommends a proportionate response • A person prosecuted under the legislation could claim that a Borough wide order was not proportionate. <p><u>Reputation & Communication</u></p> <ul style="list-style-type: none"> • Potential negative perception and reputation of Rotherham via media • There is a risk that the community will perceive the powers as a 'ban' and that this will raise an expectation that public drinking is illegal. This could have a negative impact where this was the expectation and the community did not see a response they deemed relevant. • There is a risk that the powers may be used inappropriately, eg where alcohol is confiscated from those who are not causing, or are unlikely to cause, public disorder and hence lead to dissatisfaction with the police. <p><u>Financial Impact</u></p> <ul style="list-style-type: none"> • The costs of providing signage for individual orders could prove prohibitive

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