

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

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

**Report of:** Director of Environment

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### FOR GENERAL RELEASE

There are no confidentiality issues arising from this report.

#### 1. SUMMARY AND POLICY CONTEXT:

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

#### 2. RECOMMENDATIONS:

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

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

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

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

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

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

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

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

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

The protocols contain the following

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

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

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

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

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

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

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

### **3.9 Delegated Authority**

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

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

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

## **4. CONSULTATION**

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

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

### Financial Implications:

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

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

### Legal Implications:

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

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

### Equalities Implications:

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

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

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

#### Sustainability Implications:

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

#### Crime & Disorder Implications:

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

#### Risk & Opportunity Management Implications:

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

#### Corporate / Citywide Implications:

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

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

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

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

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

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

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

### **Background Documents**

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

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