

# Review of enforcement functions

## Report of the Assistant Director Public Protection

### 1. Background

1.1 In 2003 the Board of Directors asked me to undertake an operational review of the council's statutory enforcement functions having regard to the following:

- the overall direction of the council's statutory enforcement functions and duties;
- the enforcement requirements of relevant statutes;
- likely future developments of statutory requirements and to consider if and how service provision needs to change in order to anticipate these developments;
- the efficacy of current enforcement activities together with exploring the potential for improvements in terms of efficiency, effectiveness, value for money and optimising any existing and potential partnership arrangements.

1.2 Work had already commenced on the review when it became apparent from the corporate business planning process that the review needed to be modified to determine how the authority could effectively respond to anti-social behaviour through its enforcement functions. As the review progressed it became further apparent that an effective joined-up operational service response to anti-social behaviour involved much more than the council's enforcement functions. It involved the majority of the council's operational services, but in particular all services which come into day to day contact with the public.

1.3 Taking this a stage further and having regard to Section 17 of the Crime and Disorder Act 1998, and for reasons which will become evident later in this report, the review presented an additional opportunity as to how we can not only address anti-social behaviour by a joined-up approach from the council's operational services, but also a comprehensive response to the whole issue of crime and disorder by building on the good work already undertaken with our partner agencies.

NB: Section 17 of the Crime and Disorder Act 1998 states 'without prejudice to any other obligation imposed upon it, it shall be the duty of each authority .....to exercise its various functions with due regard to the likely effect of those functions on the need to do all it reasonably can to prevent crime and disorder in its area.'

1.4 It is proposed, therefore, to break this report into two parts on what can, has and should be done in respect of a) improving the efficiency and effectiveness of the council's enforcement functions and b) how a joined-up approach between the council's operational services and our partners can provide the

mechanism for an effective and robust response to not only anti-social behaviour but crime and disorder in general also.

## **Part A: Enforcement functions**

### **2. Extent of current activity**

**2.1** It is important for Members to have an understanding of the extent of the council's enforcement functions. These are many and varied, viz:

(NB: the list is by way of example – it is not definitive).

#### **2.1.1 Front line services**

- Council tax – debt recovery
- Business rates – debt recovery
- Benefit fraud
- Sundry debt recovery
- Benefit debt overpayment recovery.

#### **2.1.2 Neighbourhood regeneration**

- Mobile home/caravan site licensing
- Drainage complaints
- Vacant property
- Compulsory purchase
- Public health nuisance in private sector housing
- Housing repairs and fitness
- Filthy and verminous premises.

#### **2.1.3 Public protection**

- Environmental health nuisance
- Authorisation of prescribed industrial processes
- Collection of stray dogs

- Dog fouling
- Health and safety at work
- Food safety
- Verminous premises and land
- Licensing conditions.

#### **2.1.4 Built environment**

- Inspection of building works
- Vetting and approval of plans
- Dangerous structures
- Demolition licences
- Planning conditions and infringements.

**2.2** Similar lists for enforcement activity apply within Environmental Maintenance, Green Environment, Integrated Transport and also Cheltenham Borough Homes with the relevant actions of all enforcement functions being counted in their thousands.

**2.3** Underpinning the council's enforcement functions is a plethora of legislation and statutory instruments. There is no let up from central government in the production of new legislation with additions to the statute books being seen on a regular basis. The context of the council's response to these new requirements is considered later.

**2.4** The council is a signatory to the Enforcement Concordat and to this effect an enforcement policy was approved by Council in December 1999. The policy details various enforcement actions on the following escalatory scale.

##### **2.4.1 Informal action** to include:

- verbal requests;
- letters;
- inspection reports.

##### **2.4.2 Statutory notices** (requiring works or modification of behaviour) to include:

- improvement;
- prohibition;

- abatement.

### **2.4.3 Formal cautions**

Used within defined criteria where as an alternative to, but not a substitute for, legal proceedings where the offender admits to the offence.

### **2.4.4 Prosecution**

Used again, within defined criteria, where the wellbeing or amenity of the public, employees and consumers are subject to serious risk.

### **2.4.5 Injunction**

Where the authority is satisfied that proceedings in a lower court would not afford an adequate remedy it may take proceedings for injunctive relief.

### **2.4.6 Enforcement of tenancy conditions**

Management of council owned residential property and action to control anti-social behaviour.

**NB: The enforcement policy requires amending to have regard of the transfer of these functions to Cheltenham Borough Homes.**

## **2.5 The enforcement policy**

While the council has an enforcement policy to control the manner of its enforcement activities across a wide range of services, no control mechanism has ever been implemented to ensure compliance. With the policy now being some five years old it **needs reviewing to have regard to subsequent developments. A corporate control mechanism also needs to be established to ensure compliance with it.**

## **3. Levels of enforcement**

**3.1** Three clearly identifiable levels of enforcement have revealed themselves as follows:

### **3.1.1 Level 1**

This level encompasses professional officers with a high degree of specialist training and qualifications and would include, for example, building control officers and environmental health officers. Usually their authorisation to undertake various enforcement functions is accompanied by a legally specified requirement relating to qualifications and experience.

### **3.1.2 Level 2**

Technically based officers where there is no legal requirement to possess qualifications (but officers often do). There are a number of officers at this level

who are former police officers. Amongst them are officers who possess highly effective life skills, rather than academic qualifications. This level encompasses such areas as licensing enforcement, highways enforcement, planning enforcement and housing benefit fraud amongst others.

### **3.1.3 Level 3**

Officers at this level tend to have received technical training to undertake their specific role eg car park enforcement and dog warden.

## **4. Skills analysis and potential for mixing**

- 4.1 At level 1 it is unlikely, if not improbable, that officers will possess the necessary qualifications and experience to transfer between their respective roles. They do, however, sometimes possess core competency skills which offer scope for assisting their colleagues in other disciplines at times of need particularly in respect of evidence gathering and the taking of witness statements under the Police and Criminal Evidence Act (PACE).**
- 4.2 Level 2 offers some scope for skills mixing and inter-changeability between roles. It has to be recognised that some aspects of these roles are very specialist with the knowledge and competencies being required to undertake them only having been acquired through specialist training and experience. However, as several of these officers are former police officers, they possess the core skills in PACE proceedings which are common to many enforcement functions. These skills are interchangeable.**
- 4.3 Level 3 offers greater scope as, with specific training, officers at this level could more easily adapt to cross department interchangeable roles.**
- 4.4 If we take enforcement levels a stage further, there is a potential for a Level 4 to exist to encompass street care workers, cleaners and others who would not fall directly into Levels 1-3 above. The importance of this level in the bigger picture of the joined up response to crime and disorder cannot be underestimated and is put into context in Part B of this report.**

## **5. Influencing factors to a future approach**

- 5.1 With the advent of Best Value, Comprehensive Performance Assessment and more recently the Gershon review, authorities are under ever increasing pressure to provide services which are economic and efficient. They must also be capable of demonstrating that this is the case.**
- 5.2 Authorities are constantly expected to respond to ever increasing demands put upon them through new legislation against a background of an ever decreasing revenue support grant. Some examples are:**
  - Licensing Act 2003 – transfer of all liquor licensing functions from the

Magistrates to local authorities

- Anti-social Behaviour Act 2003
  - anti-social behaviour: landlords' policies and procedures;
  - closure of noisy premises;
  - penalty notices for graffiti and fly posting;
  - removal of graffiti;
  - display of advertisements;
  - high hedges.
- Housing Act 2004 – licensing of Houses in Multiple Occupation.

**5.3** Enforcement functions are presently allocated to the respective divisions of the authority. While there is a clear operational need for some specific enforcement roles, particularly at levels 1 and 2, to be identified with a particular service, it does not make for the efficient and effective use of the core competencies of officers at those levels. Scope does, therefore, exist to make better use of the enforcement resources at the authority's disposal.

**5.4** Related to 5.3 above, it is not uncommon for a division carrying the licensing/consenting function not to have direct regulatory control over the subsequent activities. Examples are:

- the Public Protection Division issues the consents for street trading, objects and events on the highway with the Highways Enforcement team of Environmental Maintenance carrying out the regulatory function.
- similarly, the Integrated Transport Division deals with traffic orders and road closures with any subsequent roadway trenchworks managed by Environmental Maintenance.

While such anomalies may wish to be considered in the context of a much wider review of the council's services, they should not present a barrier to a more coherent joined up approach between various divisional functions.

**5.5** Other drivers to change include the authority taking on aspects of enforcement over which it has discretion as to whether it carries them out itself or not, for example, decriminalised car parking (Road Traffic Acts 1991 and 1995).

## **6. Changes**

**6.1** As part of the review process, I have met with all the relevant Assistant Directors to agree some changes to the way we currently work. I will approach this by dealing with the individual levels of enforcement identified at Section 3.

### **6.2 Level 1**

- 6.2.1** Clearly it is not realistic to consider interchanging roles between officers possessing high levels of qualification and experience. Indeed, there may well be legal requirements which prevent this from happening. However, as identified at this and the other levels, officers possessing PACE skills could assist officers in other divisions at times of need.

**NB:** Usually a PACE interview is conducted by two officers. There have, however, been occasions where PACE interviews were unable to take place due to the lack of availability of suitably PACE trained officers within the specific division.

- 6.2.2** Agreement has been reached to tap into such resources in other divisions at times of need. Skills gaps have been identified and a series of PACE training days organised. This training is being undertaken by the police, the first training day having taken place on 21 January 2005. PACE recording machines within Frontline Services and Public Protection are now available as a shared resource. To reinforce the recommendation at 2.4, a common corporate PACE protocol will be developed to be utilised by all services involved in enforcement activities.

### **6.3 Level 2**

- 6.3.1** As stated previously, this level offers scope for skills mixing and interchangeability between roles. Clearly where officers are PACE trained, the reciprocal arrangements in para 6.2.2 apply. But further scope exists to harness the skills of officers at this level to provide a united enforcement front for special projects. I would envisage these falling into two areas:

a) Regular events – examples of which include Raceweek and the Christmas run up where Highways Enforcement Officers and Licensing Enforcement Officers join together. This was first put into practice during Raceweek 2004, the results of which were successful prosecutions against an unlicensed street trader and an unlicensed taxi driver. A similar but more extensive exercise is planned for Raceweek 2005.

b) Area initiatives – eg problems have been experienced in the regeneration areas of the town or Cheltenham Borough Homes estates where the benefits of major clearance of fly-tipped rubbish has been undermined by more rubbish being deposited soon after. As such initiatives are likely to become more commonplace in our response to the Clean Neighbourhoods and Environment Bill, officers at this level could provide post clean up intensive enforcement to apprehend offenders.

- 6.3.2** The above are but two examples of how greater flexibility can be incorporated into the council's enforcement functions at this level.

### **6.4 Level 3**

- 6.4.1 This level offers even greater scope for flexibility in the generic authorisation of officers, examples of which could be the authorisation of park rangers to deal with dog fouling issues and the authorisation of the dog warden and car park attendants to issue litter fixed penalty notices.**

**NB: Such generic authorisations need not be restricted solely to this level of enforcement, indeed there would be much to be gained from extending such an approach into Level 2 and even Level 1 also.**

## **Part B – Responding to anti-social behaviour and crime and disorder**

### **7. Introduction**

- 7.1** As already stated at 1.3, Section 17 of the Crime and Disorder Act 1998 places an overarching duty upon the authority to consider addressing the issues of crime and disorder in everything that it does.
- 7.2** While much has been achieved at a strategic level, we have yet to infuse S17 at an operational level. What is now needed is a mechanism to enable S17 principles to run as a seamless thread throughout the council's operational services. The joined up approach detailed in Section A would form the basis of that mechanism.

### **8. Anti-social behaviour in context**

- 8.1** As we are all well aware, anti-social behaviour is the bane of communities nationwide with Cheltenham not having escaped the phenomenon. Indeed, the work undertaken in tackling the issue by Safer Estates and the Community Safety Unit under the umbrella of the Crime and Disorder Reduction Partnership has received national acclaim.
- 8.2** In addition, anti-social behaviour cannot be disassociated from the wider crime and disorder agenda. Indeed the two are often intrinsically linked. These links also extend to the quality of the environment in which people live. It is, therefore, no coincidence that dealing with crime and disorder, anti-social behaviour and improving the quality of the environment are at the top of the community's and, consequently, the council's corporate agenda. It is, perhaps, not surprising that yet another Act of Parliament is about to hit the statute books to reinforce this wider agenda.

### **9. The Clean Neighbourhoods and Environment Bill**

- 9.1** While extensive powers are in place to deal with the criminal and overtly individual aspects of anti-social behaviour, it has been recognised that local authorities did not have a complete suite of powers at their disposal to tackle associated local environmental problems. The Clean Neighbourhoods and



Environment Bill was, therefore, introduced in the House of Commons on 7 December 2004. The proposed measures include:

- measures to counter anti-social behaviour and other behaviour adversely affecting the local environment to be included in crime and disorder reduction strategies;
- new and extended powers to control problems with litter, graffiti, fly posting, illegal dumping, fly tipping and the carriage of waste;
- greater flexibility in the use of fixed penalty notices and use of receipts;
- powers to deal with problems associated with nuisance vehicles such as vehicles repaired or offered for sale on the highway, together with immediate removal of abandoned vehicles;
- extended noise nuisance abatement powers, particularly for noisy neighbours, noise from licensed premises and nuisance burglar alarms;
- new powers and offences in relation to nuisance dogs.

As indicated at 5.2 it will also come as no surprise that the proposals of the Bill do not carry with them any indication of RSG support towards implementation.

## **10. The way ahead**

**10.1** Clearly, notwithstanding the joined up approach suggested already at Part A of this report, there is further pressure upon us to rethink the way we currently go about our business. However, as yet, little mention has been made of our partners in the new joined up approach. When considered laterally, the following are just some of those partners who could assist with in the joined up united front of tackling the wider crime and disorder agenda: police officers, community support officers, CBH community wardens, store detectives, pub and club doorstaff, Neighbourhood Watch. Indeed all ordinary members of the public if the facility exists for them to participate. The Park Watch initiative currently being pursued by the Green Environment Division being a case in point.

**10.2** While the concept of a seamless joined up approach between the council, its partners and other agencies may be an exciting prospect, there are certain practical difficulties in the co-ordination of those activities if not in the collection, collation and assessment of data prior to providing an effective response to the identified problems. To this end I met with the Head of Service Development to consider a way forward. We concluded that this would be most effectively approached by the use of mobile technology. This led to the submission to the Office of the Deputy Prime Minister (ODPM) for financial support under the government's e-innovations initiative. If successful, it could lead to up to £200k of funding towards implementation. A synopsis of the concept upon which the bid is placed follows. It has the buy-in and support of the police and the Cheltenham Crime and Disorder Reduction Partnership.

## **11. Summary of innovation proposal**

**11.1** The deployment of mobile technology to field officers to collect location-based intelligence data on enviro-crime, drugs, alcohol and other suspicious activities and to share that data in real-time with the police and other agencies, enabling effective and timely solutions to crime, disorder and anti-social behaviour. Intelligence mapping will also identify licensed premises responsible for alcohol fuelled anti-social behaviour and disorder.

**11.1.1** The council deploys a wide range of employees in the field, from street care workers to planning enforcement officers – this proposal builds upon their capacity as they become the eyes and ears of the community in meeting two of its priority objectives, that is to secure sustainable reductions in crime, disorder and anti-social behaviour in our communities and to protect and enhance Cheltenham's environment.

**11.1.2** Global positioning and wireless technology will be harnessed to report incidents back to the council's customer relationship management and geographic information systems improving the council's operational responsiveness. The true innovation of this proposal, however, lies in the application of tried and tested technologies, supported by inter-agency protocols and working methods, to collate, map and share this data with other agencies to provide unprecedented intelligence analysis, sharing and co-operation.

**11.1.3 Efficiency savings and return on investment will be demonstrated through:**

- improved outputs from existing resources
- economies of scale by more focussed, faster and effective responses and targeted service planning.

### **11.2 The potential for use by others**

- The concept is highly scalable and will be based on a practical model for partnership working with supporting protocols (see growth opportunities at Section 11.7)
- As different services have varying operational requirements for mobile technology, the project will be founded on common data standards rather than common technology.
- The truly innovative aspect of this project is not only in the application of the technology but in the effective interagency partnership that underpins it.

### **11.3 Cultural and change management issues**

- The project is deeply embedded in the organisation's programme of change driving business process review and re-engineering.
- It links with priority work within the electronic government programme particularly customer relationship management and GIS working towards Gershon's targets.

### **11.4 Potential benefits to the citizen and the organisation.**

The project will contribute to the:

- delivery of the objectives of the council's business plan, community plan, crime and disorder reduction strategy, anti-social behaviour action plan, social justice strategy, night-time economy strategy, licensing policy statement, enforcement review and the improving customer access strategy (electronic government)
- implementation of current project-based priorities eg CRM, GIS, mobile technology (for park rangers, benefit visiting officers and car park enforcement), secure inter-council data network, abandoned vehicle online system, information sharing protocols, countywide remote/mobile working project (Gloucestershire Electronic Partnership) and the Home Office funded GIS crime statistics mapping
- personal safety of field officers.

### **11.5 Sustainability**

**11.5.1** The project will be sustainable as efficiency gains will cover the annual revenue cost for management overheads and replacement and renewal of capital equipment. There will be minimal reliance on the commissioning of custom technical solutions, instead the emphasis will be transferable solutions using technologies proven in the national projects conforming to national standards and integrated with the local infrastructure. Simplicity will be the key wherever possible to ensure that the implementation is stable and economic. There will be a standard issue handheld device featuring GPS to locate the device if the officer is standing at the location of the problem (and to GIS to assist remote reporting) and either wireless technology or GPRS to relay data back in real-time. However, more specialised mobile technology will be deployed for those officers with a specific service needs (eg parking enforcement) but modified to enable dual use.

**11.5.2** The benefits of the project are themselves sustainable. The government's main sustainable development programme recognises the importance of crime reduction and community safety to the achievement of sustainability.

### **11.6 Links to other initiatives**

- **Priority Outcomes**

The project relates directly to eight other e-government priority objectives (G4, R7, G6, G7, G15, G17, R21 and R22).

- **Capacity Building Programme**

The project supports the principles of the capacity building programme by pooling resources and integrating services, and supporting two-tier working. It will test innovative and transferable approaches to driving forward improvement; the learning and outcomes of which will be disseminated to other councils.

- **Social Inclusion**

As the Social Exclusion Unit of the ODPM recognises 'Crime is disproportionately committed by people from socially excluded backgrounds'. This project will be invaluable in building the bigger picture from low level data which, when coupled with socio-demographic data, will enable not only improve enforcement but better prediction and improved information for tackling the root causes of crime.

- **Efficiency Review**

The project will contribute significantly to the achievement of cost-saving efficiencies through faster responses to problems as they emerge, re-engineered processes and building the capacity of field officers.

## **11.7 Growth opportunities**

- integration with reporting facilities for the public through online services and mobile phones (3g and WAP)
- deployment of handhelds to other agencies - including neighbourhood wardens (Cheltenham Borough Homes), Neighbourhood Watch, traffic wardens and community support officers (Gloucestershire Constabulary)
- issue of handhelds to elected Members, encourage online reporting or remote working technology input data
- rollout of the project across the county
- partner members of the Night Time Economy working group eg trade and residents organisations
- community project partners eg Hesters Way, Springbank, Whaddon.

## **12. Conclusion**

- 12.1** At an operational level, the way we go about our business is changing to provide more efficient and effective enforcement functions. These changes are being used as a catalyst for change in the wider strategic context of the way the council tackles the crime and disorder agenda in general. If the bid to

the ODPM is successful, the pace of that change will be rapid and the council will be in the forefront of such change at a national level.

## **12.2 Implications**

**12.2.1** There will be some Human Resources implications to consider, particularly in respect of changes to job descriptions and joint working practices but these will be subject to normal consultation procedures with the staff and trade unions.

## **13. Next steps**

**13.1** The corporate enforcement policy will be amended and a protocol established in line with recommendations at paras 2.4.6 and 2.5.

**13.2** The agreement of the relevant Assistant Directors to the actions at 6.2 will be formalised by a memorandum of understanding.

**13.3** The flexibility and generic working practices proposed at 6.3 and 6.4 will be pursued in the first instance between the Public Protection, Environmental Maintenance, Green Environment and Integrated Transport Divisions.

**13.4** The roll-out and pace of the move towards the wide aspects of the joined up approach will be determined to a large extent by the success or otherwise of the current bid for funding via the government's e-innovations funding.