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15 January 2010

S U M M O N S

MEETING: Policy and Organisation Board
DATE: 25 January 2010
TIME: 6.00 p.m.
PLACE: Committee Room 1, Town Hall, Gosport
Democratic Services contact: Chris Wrein

LINDA EDWARDS
BOROUGH SOLICITOR

MEMBERS OF THE BOARD

The Mayor (Councillor Mrs Searle)(ex-officio)
Councillor Hook (Chairman)
Councillor Burgess (Vice-Chairman)

Councillor Carter	Councillor Hicks
Councillor Chegwyn	Councillor Langdon
Councillor Cully	Councillor Philpott
Councillor Gill	Councillor Wright

FIRE PRECAUTIONS

(To be read from the Chair if members of the public are present)

In the event of the fire alarm (single continuous sound) being activated, please leave the room immediately.

Proceed downstairs by way of the main stairs or as directed by GBC staff, follow any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

IMPORTANT NOTICE:

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

NOTE:

- i. Members are requested to note that if any member wishes to speak at the Board meeting then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off for the duration of the meeting.

AGENDA

PART A ITEMS

RECOMMENDED
MINUTE FORMAT

1. APOLOGIES FOR NON-ATTENDANCE

2. DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.

3. MINUTES OF THE MEETING OF THE BOARD HELD ON 11 NOVEMBER 2009

To approve as a correct record the Minutes of the meeting of the Policy and Organisation Board held on 11 November 2009 (copy herewith).

4. DEPUTATIONS – STANDING ORDER 3.5

(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Thursday, 21 January 2010. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).

5. PUBLIC QUESTIONS – STANDING ORDER 3.6

(NOTE: The Board is required to allow a total of 15 minutes for questions from members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Thursday, 21 January 2010).

6. ANTI SOCIAL BEHAVIOUR ORDER PROTOCOL

PART II

This report sets out a proposed protocol which will guide how the Council considers the suitability, or otherwise, of pursuing an application for an Anti Social Behaviour Order and in such cases also guides how such an application will be progressed.

Contact Officers:
Jamie O'Reilly/
Sharon
Dalrymple-Bray
Ext 5501/5268

A formal protocol will help to ensure a consistent and fair approach, and a good chance of a successful outcome of any Anti Social Behaviour Order application made to the courts by the Council.

Policy and Organisation Board
25 January 2010

- | | | |
|-----|---|---|
| 7. | CRACK HOUSE CLOSURE PROTOCOL | PART II |
| | <i>This report sets out a clear procedure supported by Partners, which shows how Gosport Borough Council will respond to consultations from Hampshire Constabulary for applications to Magistrates Courts for 'Crack House' Closure Orders under Part I of The Anti Social Behaviour Act 2003.</i> | Contact Officers:
Jamie O'Reilly
Ext 5501
Sharon
Dalrymple-Bray
Ext 5268 |
| 8. | ROGERS HOUSE REDEVELOPMENT | PART II |
| | <i>To outline the progress made in developing plans for the future of Rogers House, Lee on the Solent.</i> | Contact Officer:
Oona Hickson
Ext 5292 |
| 9. | CONTRACT PROCUREMENT PROCESS AND TIMETABLE | PART II |
| | <i>To seek the Board's approval for the procurement process and timetable in respect of Grounds Maintenance, Street Cleansing, Public Toilet Cleansing and Maintenance, Refuse Collection and Housing Services and Council Asset Management contracts on an Open Book Accounting/Partnership arrangement.</i> | Contact Officers:
Charles Harman
Ext 5287
Stevyn Ricketts
Ext 5282 |
| 10. | NEW STORE AT MIDDLECROFT ALLOTMENT (CROSS REFERENCE FROM THE COMMUNITY AND ENVIRONMENT BOARD) | PART II |
| | <i>To seek approval for the grant of a lease of land to the Allotment Holders Association for the purpose of constructing a new store in the location shown coloured red on Plan 1.</i> | Contact Officer:
Mark Pam
Ext 5563 |
| 11. | ALVER VALLEY – MANAGEMENT OF FISHING LAKE (CROSS REFERENCE FROM THE COMMUNITY AND ENVIRONMENT BOARD) | PART II |
| | <i>To advise the Board of the recommended action agreed by the Alver Valley Steering Group in respect of the future management of the Alver Valley fishing lake.</i> | Contact Officer:
David Martin
Ext 5512 |
| 12. | ANY OTHER ITEMS
which the Chairman determines should be considered, by reason of special circumstances, as a matter of urgency. | |

AGENDA ITEM NO. 6

Board/Committee:	Policy and Organisation Board
Date of Meeting:	25 th January 2010
Title:	Anti Social Behaviour Order Protocol
Author:	Jamie O'Reilly Head of Community Safety / Sharon Dalrymple-Bray ASB Co-ordinator
Status:	FOR DECISION

Purpose

This report sets out a proposed protocol which will guide how the Council considers the suitability, or otherwise, of pursuing an application for an Anti Social Behaviour Order and in such cases also guides how such an application will be progressed.

A formal protocol will help to ensure a consistent and fair approach, and a good chance of a successful outcome of any Anti Social Behaviour Order application made to the courts by the Council.

Recommendation

That the Board approves the proposed protocol.

1 Background

- 1.1 The Council (as well as the Police and Registered Social Landlords) has the power to apply to the courts for Anti Social Behaviour Orders, commonly known as ASBO's.
- 1.2 These are court orders (that can be issued for not less than 2 years) with restrictions attached which address the individual's negative behaviour within the community. Where an individual breaches these restrictions then they can be arrested and if convicted can be sentenced up to 5 years imprisonment.
- 1.3 In assessing a case of anti social behaviour careful consideration, to a range of interventions, will be given including pursuing an Anti Social Behaviour Order.
- 1.4 Gosport Borough Council's Community Safety Team coordinate and lead the Anti Social Behaviour Panel to discuss, agree and task actions in addressing individuals whose persistent anti social behaviour is impacting on the community.

2 Report

2.1 Partnership working requires clear and effective procedures which are agreed by all parties to ensure key responsibilities are met. Officers have developed a protocol which covers the process for partnership working, outlining roles and responsibilities in the ASBO application process.

2.2 These protocols are supported by the partnership agencies and set out responsibilities of each agency providing a clear process to work to.

2.3 Through joint agreements the Council has been successful in securing Anti Social Behaviour Orders for 5 individuals during 2008/2009.

3 Risk Assessment

3.1 There is a risk that if the Council does not have an approved process for responding to consultations on Anti Social Behaviour Order applications, then our response might become inconsistent or inappropriate which will in turn strain relations with the Police and other Partners. It would also diminish our ability to ensure these powers are used in a way which is consistent with Equality principles.

4.0 Proposed Agreement

4.1 The draft protocol is attached as Appendix A and provides the overall framework that the Council and Partners will operate under.

4.2 Partnership working already takes place but there is a need for these to be more formalised and this agreement will achieve this. The agreement sets out in broad terms the arrangements for the working of the Partnership.

5.0 Human Rights

5.1 The approval of a protocol will help to ensure that the human rights implications are suitably considered in every case.

6.0 Race and Equal Opportunities

6.1 The approval of a protocol helps to ensure that a fair, impartial and consistent approach is taken in such cases thereby supporting race and equal opportunities principles.

7.0 Sustainability

- 7.1 There are no envisaged significant implications sustainability with this development.

8.0 Conclusion

The Gosport Anti Social Behaviour Order protocol attached as appendix A, has been developed together with partners and has the support of partners and provides helpful guidance on the process.

Service Improvement Plan implications:	This matter is not explicitly covered in the SIP.
Corporate Plan:	Community Safety and the reduction of crime and disorder is an identified corporate priority. Ensuring agreed framework for partnership working in enforcement action against perpetrators of Anti Social Behaviour, will help Gosport Borough Council meet this objective.
Financial Services comments:	There are no envisaged financial implications with the formal adoption of this protocol.
Legal Services comments:	<i>To be completed by the Borough Solicitor/ Legal Services</i>
Section 17 Crime and Disorder Act implications	The introduction of a formal protocol such as this one, directly assists the Council in fulfilling its obligations under this duty. It does this by clarifying the roles, responsibilities and processes to ensure that all cases are considered fairly, thoroughly and efficiently.
Risk Assessment:	As above
Background papers:	None
Appendices/Enclosures:	
Appendix 'A'	Proposed Anti Social Behaviour Order Protocol
Report author/ Lead Officer:	Jamie O'Reilly/ Sharon Dalrymple-Bray

APPENDIX A

ANTI SOCIAL BEHAVIOUR ORDER PROTOCOL

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Anti-Social Behaviour Order (ASBO) Joint protocol

1.0 Introduction

1.1 Anti-Social Behaviour Orders (ASBO's) can be applied for either via Civil (stand alone) or Post Conviction; this protocol is for the purposes of Civil ASBO applications. Civil ASBO's can be made against any individual who is aged 10 or over and who has acted in a manner which has caused or is likely to cause harassment, alarm or distress to any person(s) not of the same household as him or herself ("Threshold"). If the Court is satisfied that there has been conduct that meets the threshold it then, must also consider that it is necessary to make an ASBO to prevent further anti-social behaviour by the individual.

1.2 The power to impose Anti-Social Behaviour Orders came into force in April 1999 under the terms of The Crime and Disorder Act 1998. The legislation was amended by The Police Reform Act 2002 which also introduced the following:

- ✚ It enables the courts to protect people from acts of anti-social behaviour irrespective of the local government area in which the initial acts of anti-social behaviour were carried out. (*Subsection (2) replaces subsection (1)(b)*);
- ✚ The British Transport Police may apply for ASBOs to protect people from anti-social behaviour on or in the vicinity of premises policed by them. Similarly, registered social landlords may apply for ASBOs to protect people from anti-social behaviour on or in the vicinity of premises owned by them. Local councils and chief officers of police may now apply to protect people within their area, whether or not the original anti-social behaviour took place in their area;
- ✚ New section 1B(5) allows for the relevant authority or a person who is subject to an order made in the county court to apply to the court for the order to be varied or removed by the court, subject to section 1B(6);
- ✚ There will be provision for an 'interim ASBO'. These will apply whilst the court process is taking place and is designed to protect victims and witnesses during this process; the interim will carry prohibitions which might be used in the full ASBO.



Anti-Social Behaviour (ASB) has a wide definition, but includes:-

- ✚ Graffiti;
- ✚ Abusive and intimidating language;
- ✚ Excessive noise;
- ✚ Fouling the street with litter;
- ✚ Drunken behaviour in the streets;
- ✚ Drug activity;
- ✚ Criminal Damage;
- ✚ Threatening behaviour.

Each of these issues has a direct impact on the quality of life of all residents in a community. The public expect an appropriate response from all of the criminal justice agencies.

2.0 Aim

2.1 To ensure that applications for Anti-Social Behaviour Orders are made and enforced in appropriate cases by the Police, Local Authorities and all other relevant agencies combining their skills and resources to the best effect. By doing so they will:-

-  Reduce the level of anti-social behaviour, the public's fear of anti-social behaviour and increase public confidence in the powers used by the Police and Local Authority;
-  Improve the experience of victims and witnesses within the Criminal Justice system.















3.0 Purpose of protocol

3.1 This protocol sets out an agreement on the procedures to be followed in considering and making an application for an Anti-Social Behaviour Order and applying for the variation and discharge of an ASBO.



4.0 Partner agencies

4.1 The core agencies which are members of the partnership are: Gosport Police (Hampshire Constabulary) and Gosport Borough Council – together called the Core Partners.

Other bodies who will be asked to join as partners with the Core Partners over particular applications, depending on the nature of the case, include:



-  Children's/Adult Services;
-  Hampshire County Council, Locality Team, Education;
-  Hampshire Probation Services;
-  Wessex Youth Offending Teams;
-  Youth Inclusion Support Panel;
-  Portsmouth Housing Association;
-  Warden Housing Association;
-  Drum Housing Association;
-  Home Housing Association;
-  Dominion Housing Association;
-  Hermitage Housing Association;
-  Housing 21 Housing Association;
-  Portsmouth and South East Hampshire Health Authority;
-  MOTIV8.

4.2 It is essential that there is close and effective inter-agency co-operation, this will need to take place at two different levels:-

-  Strategic and management – ensuring that the structures are in place for consultation and exchange of information and
-  Operation – ensuring that the designated officers have the resources, training and competence to work effectively together and to fulfil their role in dealing with anti-social behaviour.

5.0 Information Sharing

5.1 Effective exchange of information between partner agencies is central to the working of ASBO's and is also a necessary part of proper consultation. The two most relevant statutory provisions are Section 115 of the Crime and Disorder Act 1998.

-  Section 115 of the Crime and Disorder Act provides that any person (whether private individual or member of a public body) can lawfully disclose information where necessary or expedient, for the purposes of any provision of the Act, to a relevant authority or any other person acting on behalf of such any authority (even if he or she would not otherwise have this power). In this context "relevant authority" would include both a Police Authority and Local Authority;
-  In cases where information is to be disclosed pursuant to other statutory provisions, such as section 29 of the Data Protection Act, 1998 which exempts from its normal restriction the disclosure of personal information, the provision of such data for the purposes of the prevention or detection of crime, the apprehension or prosecution of offenders, and where failure to disclose would be likely to prejudice those objectives in a particular case.

5.2 In the event of either of the Core Partners becoming aware of behaviour which might require an ASBO, that agency will notify the Anti-Social Behaviour Co-ordinators (ASB Co-ordinators) for the Council and Police and as agreed with the Co-ordinators other necessary agencies in the additional partnership list. On each occasion both the Police and Council will be notified. Each partner will designate information liaison officers for the purposes of exchanging information quickly and in confidence. In the case of the Police, this will be the Community Inspector for the Gosport area; in the case of the Council the Head of Community Safety.

5.3 Relevant information will be contained or confirmed in a summary sheet by each relevant partner agency involved. The summary will include the details of the sender, contact address and telephone number, personal details of the defendant, the reason for the need for a possible application with a brief outline of the relevant incident(s) and other solutions that have been tried; or reasons which other solutions have been considered inappropriate and details of any other agencies involved with the individual.

6.0 Consultation

6.1 If the Council intends to apply it must first consult the Anti-Social Behaviour Co-ordinator of the Gosport Police.

6.2 If the Police intends to apply, they must first consult the Anti-Social Behaviour Co-ordinator of Gosport Borough Council.

6.3 Individuals whose ASB is continuing to impact on the community will be referred to the Anti Social Behaviour Panel (ASB Panel) for discussion by partner agencies.

6.4 The ASB Panel is to provide a forum for sharing information and co-ordinating action in response to those ASB cases, which are having the greatest impact on the

community in the Borough. It will also provide the preferred partnership mechanism for consultation on cases which will proceed for an ASBO application. Many cases will require more detailed exploration, especially any cases for which an ASBO is being considered. In such cases a dedicated case meeting will be arranged, usually by the ASB Co-ordinator or the other agency that is proposing the legal action. The ASB Panel will ensure that all possible actions to resolve ASB problems are considered before pursuing an ASBO application.

6.5 When considering applications for a new ASBO, the originating agency and the ASB Co-ordinators will decide whether or not the matter is urgent. Where the case is not urgent, the Partners receiving information will respond within ten working days to other Partners and bodies deemed appropriate for information sharing. The case will then be considered at the next regular meeting of the ASB Panel.

6.6 Where the case is designated as urgent the ASB Co-ordinators will convene an urgent meeting of the ASB Panel.





7.0 Evidence in support of an application for an ASBO

7.1 The main test for making an application for an ASBO is that the perpetrator's behaviour is continuing and cannot be dealt with adequately through existing means.

7.2 An application is made by way of a complaint to the Magistrates Court. The court must be satisfied beyond reasonable doubt that the individual has acted in a manner which has caused or is likely to cause harassment, alarm or distress to any person(s) not of the same household as him or herself on at least one occasion in the six months prior to the date of the complaint. If the Court is satisfied that there has been conduct that meets the threshold it then must also consider that it is necessary to make an ASBO to prevent further anti-social behaviour by the individual. Evidence should be collated from those persons that the conduct has been directed against or affected by it. .

7.3 If the defendant denies the complaint then the court will need to hear all other evidence from witnesses. Professional and lay witness may be used if appropriate, to give evidence from their direct observation not from hearsay. Hearsay evidence may be used in certain circumstances to show that there is a real necessity for an ASBO but it is unlikely it alone will be sufficient to persuade the court to make an order without direct evidence.

7.4 All agencies should take steps to ensure that their staff maintains accurate records of any reported anti social behaviour. This should include details of:-

-  the perpetrator (name, address, date of birth);
-  information about the incident including description of what happened
-  the exact location;
-  time and dates and any details of complainants / victims or witnesses and whether they would be prepared to make a statement.

7.5 Evidence for the case, including evidence held by other relevant agencies, will be gathered and co-ordinated by the lead agency in a case, whether it is the Police or Council and shall be referred to Council's Legal Services section.

7.6 Previous convictions may be used to support an ASBO application provided there is consultation with the Police and CPS. If agreed to proceed with civil ASBO

application instead of a criminal prosecution consultation with CPS will take place to ascertain what evidence/witnesses may be used.












7.7 The statute and regulations, Home Office guidance, and case law gives detailed advice on the application process procedure in court, appeals and breaches of the order. This guidance will be used in conjunction with this protocol.

8.0 Case conference

8.1 All requests for a Case Conference will be referred to the ASB Co-ordinator(s), who will determine whether the case is classified as urgent. If it is not classified as urgent it will be dealt with at the next meeting of the ASB Panel; where the ASB co-ordinator(s) deem a case to be urgent, the Co-ordinator(s) will convene a special meeting of the ASB Panel within seven working days.




8.2 The quorum for the meeting of the ASB Panel, when considering an urgent application for an ASBO, is three persons and must include an Inspector or other relevant representative of the Police, an ASB Co-ordinator either Police or council, and a representative of the Council Legal Services section. If in a particular case the agency requesting the application was not either of the Core Partners, a representative of that agency should also be present.

8.4 In addition to the parties above consideration should be given as to whether it is advisable/necessary to invite representatives from all agencies who have worked/are working with the individual, such as:

-  Youth Offending Team;
-  Youth Inclusion Support Panel;
-  MOTIV8;
-  GBC Housing services;
-  Educational Welfare Officer/ Head Teacher of school with interest;
-  GBC Environmental Health Services section;
-  Relevant health service professionals (health visitors, school nurses, primary care groups);
-  Probation Service;
-  Crown Prosecution Service;
-  Registered Social Landlords (where the alleged incidents forming the basis of the application have taken place on property belonging to that RSL);
-  Youth Service.

Consideration should also be given at an early stage to inviting the subjects of the complaint and their parents to attend if applicable.

8.5 The purpose of the Case Conference:-

-  To identify courses of action are appropriate to deal with the issues raised; the outcome of the Case Conference will be either to agree an action plan or to recommend that an application is made for an ASBO;
-  Review the personal information which has been shared in accordance with information sharing agreements and establish what the best interests are for all those concerned, including the subject to the complaint and those affected by the alleged anti-social behaviour;
-  Take due account of any representations made from those who are likely to subject to any application;

- ✚ Ensure that a complaint has not been made as a result of malice or discrimination;
- ✚ Consider if there is evidence that an identified individual has acted in a manner that caused harassment, alarm or distress to another person not of the same household;
- ✚ Consider if there is evidence that the actions of the individual have had a serious negative impact on others;
- ✚ Consider what action (if any) has been taken in the past to restrain this type of conduct or to divert the individual's activities to a more positive ends (e.g. outreach youth work, MOTIV8, or intervention by the YOT, Social Services or the Police);
- ✚ Determine whether there are any alternative courses of action other than an ASBO which are available in the case which are more appropriate (be these on their own or in tandem with others). Examples could include warnings, mediation, injunctions, possession proceedings, criminal prosecution or care orders;
- ✚ Where it is deemed that there are no other appropriate alternative measures available, consider whether the threshold for recourse to an ASBO has been crossed in accordance with the threshold test show in **(appendix 1)**;
- ✚ Where the ASB Panel have agreed to proceed with an application for an ASBO consideration must be give to the use of Parenting Orders **(appendix 2)** (YOT will provide a report to the court after an assessment has taken place) and Individual Support Orders **(appendix 3)** (example of report appendix 4);
- ✚ If the threshold has been crossed and the Panel decides to apply for an ASBO, decision on a course of action for the gathering of any further evidence deemed necessary, and the preparation and service of the application will be implemented;
- ✚ If the ASB Panel agrees that the threshold has been crossed but decides not to make an application for an ASBO, determine what if any alternative action is deemed necessary and why;
- ✚ If the ASB Co-ordinator(s) have not already done so. Appoint a lead agency in control of the case.

8.6 Pending Criminal Proceedings

Where the individual who is the subject of the case conference is also subject of related criminal proceedings, or is appealing against a conviction, the ASB Panel will normally hold-over any decision to make an ASBO application and let the criminal proceedings take their course. The ASB Panel will consider whether it is necessary to consult the CPS in these circumstances.

8.7 Where the individual is subject of a successful criminal prosecution or other legal sanction, it may not be appropriate to seek an order, except where there is a threat of further anti-social behaviour and the criminal sentence does not offer sufficient safeguard to the public. **However, if there is an appeal against sentence and / or conviction then the permission of the Crown Prosecution Service and the Police must be sought to use the evidence of the subject of appeal. If that appeal has gone beyond the Crown Court, then written consent must be obtained from witnesses to disclose their statements in the ASBO proceedings.**

8.8 Where a criminal prosecution fails, the Panel will take due account of the legal and procedural implication of mounting an ASBO application in respect of a related matter. Factors which will be considered are:-

- ✚ the length of the criminal proceedings and the effect on the individual;
- ✚ the reason why those proceedings failed;
- ✚ any representations made to the individual about future action.

8.9 However, in certain cases where there has been no criminal conviction as yet, the ASB Panel may decide to proceed with an ASBO application instead of the criminal prosecution if it is agreed with the County Prosecution Service that;

- ✚ an ASBO application is likely to be a more effective means of tackling the anti-social behaviour;
- ✚ an ASBO would be equally effective as the criminal proceedings in tackling the anti-social behaviour but that there would be advantage in the form of preventing immediate criminalisation of the defendant in opting for an ASBO.

9.0 Post Case Conference

9.1 Where a decision has been made to seek an ASBO, the legal work for the Panel will normally be undertaken by the Council's Legal Services section. The ultimate decision whether or not to proceed will rest with the Council's Borough Solicitor ,following a review of the evidence of the case. Where this review results in a decision not to apply for an ASBO, immediate notification will be given to the ASB Co-ordinator, the Police and other members of the ASB Panel as attended the meeting. Upon receipt of such notification, the ASB Co-ordinator will reconvene the case conference, if at all possible within ten working days.

9.2 Upon receipt of instructions to make an application for an ASBO the Council Legal Services section will review the case within five working days, If it is decided to proceed with the application it will continue with the process as soon as possible in accordance with the action plan and any evidence gathering process as outlined above.

9.3 One party may decide to proceed with the application even if the other party does not agree.

10.0 Witness development and support

10.1 The principal purpose of an order is to protect those who directly experience ASB. The protection provided should include, where necessary, those who are personally targeted by perpetrators, other witnesses who see this happen and the wider local community. It follows that engaging, developing and supporting these individuals and groups of people are a primary concern for the lead agency managing the case and seeking to use these orders. We recognise that without the initial complaint of the witness, the agency will have no detailed knowledge of the problem. Without their continuing engagement, there will be no evidence on which to build a case. The welfare and safety of residents whose complaints form the basis of any action will at every stage of the process be the first consideration. The use of hearsay evidence and professional witnesses is one way of achieving this.

10.2 Witness support is an area where the benefits of partnership working can be clearly seen: Gosport Borough Council and the Police have different skills and resources and will combine them to give well-rounded support. Methods of supporting witnesses can include:

- ✚ the supply of a simple method of capturing information – diaries, video/audio recording facilities and translation services;
- ✚ provide information on services and procedures – about the way witness support services work, service access points, telephone numbers and the name of the case manager working on the case;
- ✚ allowing the witness to have control over any information they provide, including agreeing the form in which it will be provided to the defence
- ✚ regular contact from the case manager, including telephone contact as agreed with the witness (daily, weekly, etc);
- ✚ support for any court appearance – a briefing on court procedures and what they should expect, the presence with them in court of the case manager;
- ✚ transport to and from court (if necessary) and a secure space separate from perpetrators in which they can wait to be called;
- ✚ support after a court appearance – speedy delivery of information, copies of any orders which have been made and an explanation of the implications of the court decision;
- ✚ enclosing a letter with the summons advising the respondent to stay away from witnesses;
- ✚ a higher police presence in the vicinity;
- ✚ giving witnesses the personal mobile telephone number of a named police officer who can be called if they are threatened;
- ✚ an interim order enables witnesses to be protected from the outset of the court process. Sections 48 and 49 of the Criminal Justice and Police Act 2001 make it an offence to intimidate witnesses in civil proceedings such as those for ASBOs;
- ✚ financial assistance for travel to and from the court and reasonable out of pocket expenses i.e. lunch etc.

10.3 Vulnerable and intimidated witnesses

The new provisions introduced in the Serious Organised Crime and Police Act 2005 make it easier for victims of anti-social behaviour to attend court and give evidence in person. The Act permits the 'special measures' that were formerly reserved for criminal hearings to be used in anti-social behaviour cases. This will enable witnesses who wish to give direct evidence to do so in private, from behind a screen or by video link. Vulnerable witnesses are all witnesses aged under 17 years or whose quality of evidence is likely to be diminished because they have a mental disorder or learning disability or have a physical disability or physical disorder. Intimidated witnesses are witnesses whose quality of evidence is likely to be diminished because they are in fear or distress about testifying. It is for the court to decide whether the quality of a witness's evidence is likely to diminish.

10.4 Calling a witness to give evidence

Where a decision has been made to call a witness to the full ASBO hearing, it is the duty of the lead agency to write to the witness and provide the letters to the Police as soon as practicably possible. The Police will call on the potential witness to discuss the process and provide them with the letter by hand.

11.0 Post Hearing

When an ASBO is granted, the Magistrates' Court will undertake where possible, to serve a copy of the ASBO on the defendant prior to his/her departure from court, In the case of a child or a vulnerable adult a copy of the order must be given to the parent or guardian.

11.1 If the defendant or defendants have left court before it has been possible to serve a copy of the order immediate arrangements must be made by the solicitor and the officer in charge in the lead agency for the Police to serve a copy or copies of the order on the defendant that day. Again in the case of a child or a vulnerable adult a copy of the order must be given to the parent or guardian.

11.2 An ASBO is effective on the date it is made but the calculation of the period of the order commences from the date of the service. This may be important where neither Police nor personal service has been possible on the day of the court hearing. Where an individual has not been personally served with an order the court will serve a copy of the order by first class post to the defendants last known address. Proof of service of an ASBO is important, since any criminal proceedings for breach may fail if service is challenged by the defence and cannot be proved by the prosecution.

11.3 The lead agency will ensure that on the obtaining of an ASBO a copy is forwarded immediately to the Police, Local Authority and other relevant agencies or organisations. The victims and any witnesses involved should also be notified. The Police will also notify the appropriate Police Area Command the same working day so that the details of the defendant and the conditions of the ASBO are recorded on their local force database.

11.4 The ASB Panel will draw up a plan to ensure that the ASBO is effective and to provide any necessary support for the individual.

12.0 Media and Publicity

12.1 Restrictions on publicising via newspapers, radio, television and other media are automatically placed on interim ASBO's for children and young people. Consideration will be given to the age of individual and the necessity for full Media publicity or whether it would be sufficient to inform witnesses about ASBO's as opposed to publicise in the newspaper etc.

12.2 Where an ASBO has been issued the lead agency will ensure that the complainants, partner agencies who are supporting the individual and the community in which the ASB impacted on are informed of the outcome of the hearing. The lead agency will take responsibility for handling the media, given that there will be no reporting restrictions in Court. The lead agency will convene a meeting to plan the publicity with GBC Legal services, ASB Co-ordinators and a representative from the Police Media Unit.

12.3 Publicising ASBOs reassures the community that action is being taken and provides them with information to report a breach. Disclosure of information must be proportionate to achieving the aims of the order in the community it is designed to protect. There should be a correlation between the purpose of publicity and the

necessity test: that is, what is the least interference with privacy that is possible in order to promote the purpose identified. It is necessary to balance the human rights of individuals subject to an ASBO against those of the community as a whole when considering publicising ASBOs.

12.4 A photograph of the subject of the ASBO will usually be used so that they can be identified. This is particularly necessary for elderly people or housebound witnesses who may not know the names of those causing a nuisance in the area. The photograph should be as recent as possible.

Publicity usually takes the form of local press coverage or targeted leafleting.

The advantages of publicising an Anti Social Behaviour Order are:

- ✚ **Enforcement of the order:** local people will be aware of the prohibitions and are able to identify and report breaches to the police, or to local authorities for investigation.
- ✚ **Public reassurance:** the community are made aware that local agencies will take action to protect them from anti-social behaviour that they should not tolerate anti-social behaviour, and that local agencies will respond to reports of anti-social behaviour.
- ✚ **Deterrent to the individual who is subject to the order:** by the perpetrator having knowledge that his/her community are aware of the conditions and this will increase the risk of any breach of prohibitions being reported by individuals in that community, the perpetrator is less likely to breach the ASBO.
- ✚ **Deterrent to other potential perpetrators:** Publicity sends out a message that action will be taken against those who deliberately destroy the quality of life of others, and therefore can act as a deterrent to others who choose to act in an anti-social manner.

The method of publicity can include the following:

- ✚ local print and television media;
- ✚ local leaflet drop;
- ✚ local newsletter.

12.5 Decision making process

The decision making process should aim to consider and record several key factors:

- ✚ The need for publicity;
- ✚ A consideration of the human rights of the public;
- ✚ A consideration of the human rights of those against whom ASBOs are made;
- ✚ What the publicity should look like and whether it is proportionate to the aims of the publicity.

12.6 In applications involving juveniles where evidence has consisted of details of their past criminal convictions and reporting restrictions were not lifted for these convictions, the publicity should not make reference to those criminal convictions. Similarly where an order or conviction has been obtained in the Youth Court for a juvenile, unless reporting restrictions are lifted, details of the criminal offences or behaviour alluded to in the criminal hearing cannot be reported.

12.7 However, details of the behaviour outlined in the order on conviction hearing

can be used.

12.8 The timescale of publicising should also be given due consideration; it is important that publicity does not become out of date or irrelevant. Special attention needs to be paid to posters that are distributed to other organisations, as posters should not be left up when the need for them has expired.

13.0 Review, Monitoring and Evaluation

13.1 On 1st February 2009, section 123 of the Criminal Justice and Immigration Act 2008 will insert new sections 1J and 1K, into Part 1 of the Crime and Disorder Act 1998. The sections require agencies to carry out a one year review of ASBOs issued to persons under 17 years of age: s1J sets out how the review should be carried out and s1K sets out which agencies are responsible for carrying out and participating in the review.

13.2 The applicant authority that made the ASBO against a young person is required to carry out a review one year into the ASBO's operation.








13.3 The review should be administrative rather than judicial, and should be undertaken by the team that decided upon the initial application. Where practicable, youth offending teams, (YOT) should provide the applicant team with an assessment of the young person.



13.4 The idea is to assess the young person's progress in abiding by the prohibitions and to decide whether the order should be varied. The one year review also reflects the fact that young people's lives and circumstances can change rapidly. Applicant authorities should also look at what additional support might need to be offered to the young person or their family.

13.5 The obligation to carry out this review applies to any ASBOs whose first anniversary falls after the commencement of the new requirement. (set for 01/02/2009) It would not apply to ASBOs whose first anniversary falls before commencement.

13.6 However, ASBOs on persons under 17 that have already lasted up to, say, 18 months ought to be reviewed. To qualify for a review, an ASBO must be less than nine months old when these provisions come into force; or have been varied nine months (or less) before the requirement comes into force.

13.7 The Core Partners, through the ASB Panel, will monitor annually their successful ASBO applications. Details of each case monitored will be kept by the ASB Co-ordinators and each core partner as appropriate. As a minimum there should be a record of:

-  Name, address, date of birth, gender and ethnic origin of the defendant;
-  Victim profile;
-  Date and conditions of any Order obtained;
-  Date and detail of any variation or discharge order made by the court;
-  Details of any contributory issues e.g. drugs, alcohol, substance misuse and or mental health problems;
-  Details of any aggravating factors e.g. racial motivation;
-  Record of any proceedings for breach of the order, whether or not these are

- successful;
-  Assessment of the outcome in terms of whether or not anti-social behaviour has ceased;
-  Details of witness or victims who have provided statements (partners must ensure these details are kept secure).

13.8 Consistency of information will help inform future audits and crime reduction strategies. It will also assist with any future applications for an ASBO and ensure that they are used correctly.

13.9 The local authority has the power to prosecute a stand alone ASBO where it is either the applicant agency in the original ASBO proceedings or where the defendant resides in the local government area.

14.0 Variation, Discharge or Appeal of an Order

14.1 Any variation or discharge should be notified to the ASB Co-ordinators who will ensure that all other relevant agencies, or necessary victims and witness are informed as soon as possible.

14.2 Parties to the making of an ASBO can vary the terms or discharge the order for a variety of reasons. The defendant may wish to vary the terms to visit family members, for the purposes of work or attend drug treatment, for example.

15.0 Breach of an ASBO

15.1 Breaching the terms of an anti-social behaviour order without reasonable excuse is a criminal offence which will normally be prosecuted by the CPS.

15.2 The Crown Prosecution Service will in accordance with its statutory duty be responsible for the prosecution of a breach. Any breach will be reviewed in accordance with statutory duty. CPS will exercise caution in proceedings, particularly in respect of minor breaches, taking into account the representations by relevant agencies. If the behaviour constitutes another criminal offence, as well as being in breach of the Order, that too will be a factor pointing towards prosecution for both the breach and the criminal offence.

15.3 Information on breaches of an order can be received from any source. Any information received by partner agency about a breach will be passed immediately to the police. The police will notify the ASB Co-ordinators.

16.0 Cost

16.1 It is accepted that the cost of making an application for an ASBO may have to be shared by the Partners and agreed as necessary at an appropriate ASB Panel meeting.

16.2 The final figure of such costs will not normally be known until after the completion of the application and that such costs will have to be agreed in advance on a best estimate basis and finalised after the hearing of the applications.

17

Dated this day of 2009

SIGNED ON BEHALF OF GOSPORT POLICE

SIGNED ON BEHALF OF GOSPORT BOROUGH COUNCIL

Related documentation for further information:

GBC's ASB Panel protocol
GBC's Acceptable Behaviour Contract protocol (to be updated)






The Crime and Disorder Act 1998
 Section 115 (information sharing)
 Part 1, 1J & 1K (review of ASBO)
Data Protection Act 1998
 Section 29 (disclosure of personal information)
Police Reform Act (ASBO applications by agencies who are not the Police)

Appendices

1 = Threshold test
2= Parenting orders
3 = Individual Support Orders
4 = ISO and PO report example
5 = Process for ASBO and ISO/PO report

Appendix 1

Threshold Test




-  Is there evidence that an identified individual has acted in a manner that caused or was likely to cause harassment, alarm or distress to another person(s) not of the same household in circumstances where there is no reasonable excuse for his behaviour?
-  Is there a pattern of behaviour that cannot easily or adequately be dealt with through prosecuting those concerned for a criminal offence?
-  Is there a need to intervene to protect one or more members of the community from further anti-social acts by that individual?
-  Is there evidence that the actions of the individual have a serious negative impact on others
-  Have other methods of preventing anti social behaviour been tried or considered inappropriate (such as Injunctions, eviction, mediation, acceptable behaviour contract)

Appendix 2 **Parenting Orders**

Parents have a responsibility to the child and the community to supervise and take care of their children and prevent problems in their behaviour and development which, if allowed to go unchecked, could present major difficulties for the individual, the family and the community.

Parenting contracts and orders are a supportive measure designed to help parent(s) or carer(s) improve their parenting skills so that they can prevent problems in their child's behaviour and steer them away from becoming involved in anti-social and offending behaviour.

Parenting orders:

-  can be made for children and young people up to 17 years old.
-  can be imposed by a criminal court (youth, magistrate or crown court acting under civil jurisdiction) or a family court or a county court.
-  last up to a maximum of 1 year and any course or programme specified in the order can last up to 3 months.

The order can consist of two elements.

- A parenting programme is designed to meet parents' individual needs to help them address their child or children's misbehaviour. This is not a punishment but a positive way of bolstering parental responsibility and helping parents develop their skills so they can respond more effectively to their children's needs
- A second element specifies ways in which parents are required to exercise control over their children's behaviour to address particular factors associated with their behaviour or offending. Examples might be escorting their children to and from school every day to ensure attendance, or ensuring that a child is at home during certain hours.

The courts can also require parents to attend a residential parenting course, provided that it is likely to be more effective than a non-residential course, and that any interference with family life is proportionate (section 18 Anti-Social Behaviour Act 2003).

Assessment

Assessment is needed to form a picture of the child and the family circumstances. This should be informed by information from other agencies, and carried out by a member of YOT usually a Parenting Support Coordinator. If a Common Assessment Framework (CAF) / Onset or Assest has been used, it should inform and feed into assessment by the YOT. (The YOT or YISP may also produce a CAF for instance where there are complex needs that require the intervention of different agencies). Where an assessment suggests that parenting is a significant factor in the child or young person's misbehaviour, a detailed assessment of the parents should be carried out. Every effort should be made to assess both parents however, it is recognised this may not always be possible (for example in the case of an absent parent).

Assessment should identify:

- ✚ parenting risk and protective factors;
- ✚ the individual needs and circumstances of the parents;
- ✚ whether a programme could support the parents so they can positively influence their child and if so, what form it should take and whether and why it should involve a parenting contract or an order - both parents (fathers as well as mothers) should be involved unless there are clear and recorded reasons not to;
- ✚ any cultural, racial, linguistic, literacy, religious or gender specific issues that may affect the kind of programme that will be effective for a particular parent;
- ✚ the facts relating to a particular parent or child without invalid assumptions relating to culture, race or gender;
- ✚ whether the parent has any disability, special educational need or mental health problem that would affect the parent's ability to participate in a programme and if so, how it can be accommodated;
- ✚ any other issue that could affect a parent's ability to participate (such as transport or child care).

The parenting assessment and the assessment of the young person should be linked and the proposed parenting work should take full account of them. The YOT should be ready to present them in court if recommending, a parenting order. The assessment should be updated in light of any significant new information and should be regularly reviewed.

Non-Compliance with a parenting order

In the first instance parent(s) or carer(s) will be given a written warning if they fail to comply with the terms of the order

If they still fail to comply with the conditions of the order a meeting will be called to review the situation

If after these procedures, the parent(s) or carer(s) do not comply with the order and cannot give a genuine reason for not doing so, they will be in breach of the order and may be fined up to Level 3 which currently stands at £1,000 (as at 16.12.08)

Appendix 3

Individual Support Orders

Individual Support Orders (ISOs) are designed to provide support to young people subject to 'stand alone' Anti-Social Behaviour Orders (ASBOs) by providing tailored interventions to prevent reoccurrence of the behaviour which led to the ASBO. YOTs are best placed to deliver such orders because they offer a wealth of skill, experience and success in improving outcomes for both young people and the communities in which they live.

A magistrates' court imposing an ASBO (stand alone only) on a young person aged between 10 and 17 years, will be obliged to make an ISO if it takes the view that it would help prevent further anti-social behaviour. The YOT should advise the court of the need for the ISO and what it should contain, based on a needs assessment of the young person. Working with other local partners in the anti-social behaviour application process will provide the YOT with the links necessary to advise the court of what the ISO should contain.

YOTs are encouraged to recommend ISOs to courts in appropriate cases, in order to assist in reducing the likelihood of breach of an ASBO and to improve the quality of life for both the young person involved and the community in which they live. YOTs are expected to deliver ISO interventions as part of their core prevention work, through existing prevention programmes such as youth inclusion and support panels or through dedicated ISO schemes, depending on local provision.

ISOs can only be attached to section 1a orders which are the only ones referred to as ASBOs in legislation.

Section 1b and section 1c orders which are commonly referred to as ASBOs are actually called interim orders and orders on conviction respectively.
(Criminal Justice Act 2003, section 322)

Appendix 4

Individual Support Order/Parenting Assessment Report

This is an Individual Support Order (ISO) / Parenting Assessment Report, prepared to assist the court in deciding on the suitability and the content of an ISO/Parenting Order, made in conjunction with an Anti-social Behaviour Order(ASBO) under the Crime and Disorder Act 1998 (as amended by the Criminal Justice Act 2003 and Anti-Social Behaviour Act 2003).

It is a confidential document, prepared specifically in relation to the proceedings described below and should not be used for other purposes

Court Information

Court name		Hearing Date	
Date report completed			

Young person

Name	
Age	
Date of birth	
Address	
Post Code	

Parents/carers

Name	
Date of birth	
Relationship	
Address	
Post Code	

Parents/carers

Name	
Date of birth	
Relationship	
Address	
Post Code	

Parents/carers

1	Sources of information
1.1	This report has been prepared using the following sources:
2	Previous YOT support and involvement
2.1	<i>(Include any support offered as part of Acceptable Behaviour contract process or referrals to YOT prevention programmes)</i>
2.2	Response/engagement with YOT or other prevention services offered <i>(include any currently active YOT/prevention interventions)</i>
3	Current YOT or other targeted prevention programmes/resources available in this area
3.1	<i>Include programmes available in the area such as Youth inclusion programme (YIP), youth inclusion and support panel (YISP), safer schools programme (SSP), positive activities for young people (PAYP), parenting programmes etc</i>
4	Suitability for an Individual Support Order
4.1	Young Person Assessment (based on Onset/Asset assessment information)
4.2	Desired impact of an ISO on future anti-social behaviour
4.3	<i>If the view of the YOT is that an ISO is not suitable, specify the reasons based on the above assessment</i>

5	Suggested Individual Support Order contents (length, frequency of contacts, programme components and delivery agents)
5.1	If the court imposes an ASBO today, it is my recommendation that <i>(insert name)</i> should also be made subject to an Individual Support Order (ISO) for a maximum of six months.
5.2	The Court is obliged to make an ISO on a young person between the ages of 10 and 17 years if it is satisfied that it would be desirable in the interests of preventing any repetition of the kind of behaviour which led to the making of the ASBO. An ISO can last up to six months and imposes positive obligations on a young person.
5.3	The purpose of an ISO is to tackle the underlying causes of a young person's anti-social behaviour and, if <i>(insert name)</i> is made subject to an ISO today, I would ask that <i>he/she</i> is required to:
6	Suitability for a Parenting Order
6.1	When the court is making an ASBO on a young person under the age of 16 years, the court is obliged to make a parenting Order if it is satisfied that it is desirable to do so in the interests of preventing further anti-social behaviour.
7	Suggested Parenting Order contents: <i>(e.g. the nature of parenting programme offered and its duration; name of proposed responsible officer. Ensure that the court is aware of the time needed to set up and deliver the programme so that the order is long enough. Specify contact arrangements that the responsible officer will direct, who will deliver programme and any specific requirements.)</i>
7.1	

Signed	
YOT Officer	
Address	
Telephone	
Reference	
Copies to be sent to	ASB Coordinator at Gosport Borough Council Parent and the Solicitor acting on behalf of the young person

Appendix 5

ASBO

1. The individuals ASB has continued to be persistent and impact on the community, referral to ASB Panel via ASB Coordinator for GBC or ASB Coordinator for Police received and consultation taken place at the ASB Panel
2. ASB Coordinators gather *evidence and submit a file to GBC Legal department (Civil ASBO) or for post conviction to the relevant Sergeant in the case, for agreement that there is sufficient evidence to proceed
3. Application made to the court, summonses issued and hearing date set
6. ASB Coordinator (GBC) to request report from Youth Offending Team in respect of Parenting Order and Individual Support Order (Civil ASBO) – ***n.b. a minimum of 3 weeks notice required to allow time for the assessment to take place and reports to be written***
7. Evidence review, special measures for witnesses prepared
8. Court hearing
9. Full ASBO awarded, details of order forwarded to the appropriate agencies
10. Publicity of ASBO (providing reporting restrictions have been lifted)
11. Review ASBO annually at ASB Panel – variation and extensions to be agreed at ASB Panel

PO/ISO report

1. Application for ASBO considered and agreed to proceed
2. In the case of a young person being subject to an application for an ASBO the ASB Coordinator will contact YOT to see if the young person is already on an order to an officer and if so the date it expires (where this information is not already known). If the young person is not an open case, then a referral to the YOT is undertaken by the ASB Coordinator for assessment and ISO/PO report. The ASB Coordinator will provide the following information:
 - court date and time
 - schedule of alleged incidents
 - list of the proposed ASBO conditions
 - copy of court order (in cases of interim order)
 - copy of letter notifying parents/carers of ASBO application
 - young person and parent/carers details including contact address and telephone numbers
3. The YOT will then write to the young person and their parent /carer offering to complete a comprehensive assessment and ISO/PO to assist the ASBO application. If the request comes from an interim ASBO/court appearance the letter should reflect

the fact it is a court-requested assessment and explain that failure to co-operate will be reported back to the court.

4. The completed ISO/parenting report will be sent to the Parent/carer, the defendants legal representative and ASB Coordinator (who will pass to prosecuting Legal representative for submission to the Court).

5. The assessing officer should attend the court hearing to answer any queries regarding the content of the report.

*evidence; Police chronology of incidents, witness statements, reports from supporting agencies on the behaviour of the individual and the practioners views on the suitability of an ASBO.

AGENDA ITEM NO. 7

Board/Committee:	Policy and Organisation Board
Date of Meeting:	25 th January 2010
Title:	Crack House Closure Protocol
Author:	Head of Community Safety
Status:	FOR DECISION

Purpose

This report sets out a clear procedure supported by Partners, which shows how Gosport Borough Council will respond to consultations from Hampshire Constabulary for applications to Magistrates Courts for 'Crack House' Closure Orders under Part I of The Anti Social Behaviour Act 2003.

Recommendation

That the Board approves the proposed protocol (attached at Appendix A) and delegates authority to the Chief Executive to certify that the Council has been suitably consulted by Hampshire Constabulary in any proposed 'Crack House' Closure application relating to premises in the Borough.

1 Background

- 1.1 Hampshire Constabulary are responsible for applying to the Courts for a Crack House Closure Order, in respect of a premises where dealing and supplying class A drugs along with associated Anti Social Behaviour is impacting on the local Community.
- 1.2 The Police are required to consult with the Council in all applications for a Crack House Closure Order irrespective of whether or not it is a premises owned by the Council
- 1.3 In Gosport the Police have to date made regular use of these closure powers and have worked closely and efficiently with the Council and other partners in this regard. Before the development of this protocol a more limited document (drafted in 2004) which set out the arrangements between Gosport Police and the Council's housing department for Crack House closure, was used as a guideline.
- 1.4 However, since the production of the original document, experience has provided fresh insights which need to be addressed. The adoption of a fresh, agreed protocol helps to set out the agreed approach clearly to all and helps to ensure consistency.

2 Report

- 2.1 Partnership working requires clear and effective procedures which are agreed by all parties to ensure key responsibilities are met in a timely fashion. Officers, from Community Safety together with Police and Housing have developed the protocol which covers the process for partnership working, outlining departmental roles and responsibilities in the Crack House Closure consultation process.
- 2.2 This protocol has suitably incorporated feedback from a consultation exercise with all relevant partners.

3 Risk Assessment

- 3.1 There is a risk that if the Council does not have an approved process for responding to consultations on 'Crack House' Closure Orders, then our response might become inconsistent or inappropriate – which will in turn strain relations with the Police and other Partners.

4 Conclusion

The Crack House Order Consultation protocol, attached as Appendix A, has been developed together with partners and has the support of Partners and provides a helpful guide and standard for responding to these important consultations.

Financial Services comments:	None
Legal Services comments:	The Police are required to consult the Council in respect of all proposed 'Crack House' Closure Order applications that relate to premises situated in the Borough. As time is of the essence in 'Crack House' Closure Order applications, it is important that there is an appropriate protocol in place with the Police in order that relevant information and intelligence can be exchanged in order that meaningful consultation can take place prior to the Police applying to the Court for a 'Crack House' Closure Order.
Service Improvement Plan implications:	This matter is not explicitly covered in the SIP.
Corporate Plan:	Community Safety and the reduction of crime and disorder is an identified corporate priority. Improvement of the process by Partnership organisations will help Gosport Borough Council meet this.

Section 17 Crime and Disorder Act implications	The introduction of a formal protocol such as this one, directly assists the Council in fulfilling its obligations under this duty. It does this by clarifying the roles, responsibilities and processes to ensure that all cases are considered fairly, thoroughly and efficiently.
Risk Assessment:	<i>As above</i>
Background papers:	None
Appendices/Enclosures:	
Appendix 'A'	Crack House Closure Consultation protocol
Report author/ Lead Officer:	Jamie O'Reilly Head of Community Safety 023 9254 5501 / Sharon Dalrymple-Bray ASB Co-ordinator 023 9254 5268

APPENDIX A

CRACK HOUSE CLOSURE PROTOCOL

**Gosport Borough Council
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02392 584242**

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Introduction

Sections 1-11 of the Anti-Social Behaviour Act 2003 introduced a new range of powers that are available to the police, in consultation with local authorities, to enable the swift closure of properties taken over by drug dealers and users of Class A drugs which cause disorder or serious nuisance to the local community; for a period of 3 months.

The supply and use of drugs from residential properties has emerged as a major cause of harm to communities and has a negative impact on community life, regeneration and social capital. The powers created offer a real opportunity to act swiftly and decisively to control these problems. While premises from which Class A controlled substances is sold and used have been the greatest single example of such harm, the intention is that these powers are used wherever class A drugs are accompanied by problems of disorder or serious nuisance.

Aim

To ensure that applications for Crack House Closures are made and enforced in appropriate cases by the Police and partner agencies to reduce incidences of anti social behaviour or serious crime.

1. PURPOSE

- 1.1. The purpose of this Protocol is to facilitate joint working between Gosport Police and Gosport Borough Council, and voluntary agencies to reduce the serious impact on communities of drug abuse and drug dealing from closed drug markets i.e. Crack Houses.
- 1.2. The Protocol recognises that to achieve this objective a range of interventions will be required depending upon the vulnerability or otherwise of the tenant. This may include bringing offenders to justice, the use of Closure Orders (under Part 1 of the Anti-Social Behaviour Act 2003), fast track eviction or other civil enforcement and consideration for re-housing where the tenant is vulnerable and this would significantly disrupt drug activity and close a Crack House
- 1.3. The measures within this protocol are intended to provide respite to residents from the criminal activity and anti-social behaviour associated with Crack Houses (see Appendix A – What is a “Crack House?”). The protocol provides an approach to dealing with “Crack Houses” which balances criminal and civil enforcement with support to vulnerable users. However, the specific objective will be the closure of Crack Houses (see Appendix B – Closure of a “Crack House”).
- 1.4. Enforcement will be targeted against residents who are not vulnerable or who are vulnerable but are not engaging with support agencies or continue to cause alarm or distress to their neighbours.
- 1.5. This protocol will also enable Gosport Borough Council Housing Services, and other housing providers to initiate legal proceedings, including evicting its own and other occupiers who use their premises for illegal purposes or for prosecutions where there is an arrestable offence, under the 1996 Housing Act. Consideration would also be given to the use of housing injunctions and Anti-Social Behaviour Orders (ASBO)
- 1.6. Illegal purposes includes:
 - Evidence of drug use or supply on the premises or in the locality.

- Recovery of stolen property by the police.
 - Use of the property for prostitution.
 - Conviction for an arrestable offence.
- 1.7. The County Court must be satisfied that it is reasonable to make an order but must take into account the impact that the behaviour is having on the community.
 - 1.8. The protocol will also enable joint working to support the police in obtaining Closure Orders to 'immediately' close down premises being used for the supply, use or production of Class A drugs where there is associated serious nuisance or disorder. This will complement other actions being pursued under this protocol as and where appropriate (see Appendix C for information about Closure Orders).

2. Process

- 2.1 The process (appendix F Crack House flowchart) will be initiated by the Police. The Police will make contact with the link officer for the council, at the earliest opportunity, when a Crack House Closure is being considered pre or post warrant, or as part of an overall strategy to combat drug related ASB relating to a premise.
- 2.2 Police to submit consultation form (appendix G Consultation forms) to Head of Community Safety.
- 2.3 Head of Community Safety confirms ownership details, advises Homelessness and The Council Housing Officer/Registered Social Landlord Housing officer where relevant, of application within one working day.
- 2.4 The Head of Community Safety will then arrange information sharing meeting between the appropriate agencies; Adult/Children services (where relevant), housing officer for the Council or RSL, Police and legal teams; within five working days.
- 2.3 Information shared at the meeting will be for the purpose of supporting enforcement action for both the Police and Housing provider (appendix D). For example the Housing Provider will share any complaints received in respect of ASB, and provide contact details of complainants for obtaining statements or other further evidence. Police will share relevant information of drug related materials found at the premise to support the eviction process; Police and Housing provider to share information in respect of other services the individual is being supported by. The Legal teams, for the respective organisations, will consider the evidence for each application confirming if there is sufficient evidence to proceed with legal action such as; notice seeking possession leading to eviction, Crack House Closure, Anti Social Behaviour Order/Injunction. Homelessness officer to decide if the resident is likely to be vulnerable, as set out under homelessness law, and if so whether any person affected may be a disabled person for the purposes of the Disability Discrimination Act.:
 - The Police should direct any persons, who might be made homeless, to the Council's Housing Options Service:
 - Non-vulnerable customers have the right to receive advice on options to retain present accommodation or alternative housing options and assistance;
 - Vulnerable customers, as above but with the addition of a duty to accommodate if homeless and eligible (relates to immigration status)
 - Disability may apply: The Council has a duty to consider the disability before taking any enforcement action.
- 2.4 Within one working day of the meeting the Head of Community Safety will sign and return the consultation form to the Police and include relevant comments.
- 2.5 Post meeting The Council/RSL consider legal action and initiate process to ensure enforcement is in place within two months of the meeting, such as Notice Seeking Possession and/or without Notice Injunction.

- 2.6 For privately owned properties Community Safety to task further action as necessary to secure the property and prevent further nuisance.

3. JOINT WORKING

- 3.1 This protocol will be jointly owned by the Chief Executive at Gosport Borough Council and Chief Inspector of Gosport Police. It will be coordinated by Community Safety Team at Gosport Borough Council and the Police officer assigned to the case.
- 3.2 The following are signatories to the protocol and will be expected to be represented at “Crack House” problem solving meetings where activity under the protocol will be monitored:

- **Gosport Police**
- **Gosport Borough Council Community Safety Team**
- **Housing Services Unit (Council: when appropriate)**
- **Environmental Services (Council: when appropriate)**
- **Registered Social Landlords (1st Wessex (formerly PHA), Hermitage Housing, Housing 21, Drum Housing, A2 Dominion, Home Housing), where appropriate.**

4. INFORMATION SHARING

- 4.1 Information sharing at Crack House Closure and associated meetings is key to joint working towards a robust approach to the enforcement of these powers.
- i) Information shared to prevent and/or detect a crime is allowed under Section 115 of the Crime and Disorder Act 1998.
 - ii) At the beginning of all bespoke meetings members will be advised of data sharing and confidentiality (appendix D).
 - iii) Requests for the sharing of information outside of these meetings must be in writing giving the reason for the information request and what the intended use of that information will be

5. CONSULTATION

- 5.1 There is a legal duty for the Police to consult the Local Authority, by use of agreed consultation on application form, before serving a Crack House Closure Notice. Usually the Police will organise a briefing of consultees (including the Councils ASB Co-ordinator and where property is Council owned, the head of Housing Operations) before formal consultation on the crack house closure notice. However, there will be instances where time and operation imperatives require a statutory consultation before any Police briefing. In these circumstances an extra ordinary meeting of the consultees (and other core partners as necessary) will be convened, by the Police case officer as soon as possible, with the following agencies being invited:
- The Police (Officer in case/Anti Social Behaviour Co-ordinator).
 - Council Housing Department (where Council owned property)
 - Registered Social Landlord/Landlord (where appropriate)
 - Adult and Children's Services (where appropriate)
 - Council Community Safety Team (Head of Community Safety)
- 5.2 The Police will take reasonable steps to inform the Registered Social Landlord/The Council housing at each stage that an investigation is under way and that a Closure Order is

actively under consideration. However, in cases where it is essential to maintain the integrity and confidentiality of the Police operation, the RSL may only be informed following the drugs raid and service of the Notice.

Neither the Local Authority, nor the RSL, has any right to veto the serving of a Notice. Police should, however, give consideration to those views received and any dissenting concerns should be recorded.

- 5.3 Relevant information relating to crime and anti-social behaviour will be exchanged between the Partners, as consistent with sec. 115, Crime and disorder Act 1998.
- 5.4 Further consultation within the first 6 weeks of the closure, will require the officers to agree a strategy to either pursue a formal eviction or provide additional support and allow the tenant to return, or further legal actions such as an Anti Social Behaviour Order

6. The Police

- 6.1 The Police Officer in the Case / Anti Social Behaviour Co-ordinator will include an update on previous referrals i.e. investigation complete (the Council will not take any action before this stage has occurred), prosecution and outcome of prosecution. The Officer in the case will provide, if requested, a written statement and will attend court to support The Council's legal proceedings.

This statement to include:

- date, time & address attended;
- name of the tenant or other persons (if known) and whether they were found on the premises at the time. Whether they were arrested, whether they were charged and what the offences were;
- number of people found on the premises (including any children with their ages);
- description of the physical condition of the property and any drug paraphernalia (full description of their type and location, including ICEFLO photos). Details of any security fortification to the property; and
- details of any drugs or stolen property recovered with exhibit reference numbers

- 6.2 This statement is to be provided by Police as soon as reasonably practicable after the execution of warrant or relevant action and the date of exchange with The Council to be recorded on the closing report on the address.

- 6.3 Police will also provide a formal exchange of information to include:

- recent relevant convictions;
- forensic analysis report; and
- criminal intelligence (relevant CAD reports). This will provide a history/background to the case.

- 6.4 If the addresses are currently subject to police investigation no further action will be taken to prevent compromising planned police operations. Feedback on operations will then be incorporated into the exchange of information maintained within the Police of statements supplied to The Council

7. Gosport Borough Council

- 7.1 The Head of Community Safety will act as lead officer (please see contact list part 13) usually represented in such cases by the ASB Co-ordinator, who will act as link officer with Police on behalf of the Council for Crack House Closure Notice consultations. The Community Safety Team will maintain a record of all consultations of Crack House Closure applications.
- 7.2 Community Safety will consult with Legal Services regarding action for anti-social behaviour and criminal activity for privately owned properties. In the event of a Council owned property a lead officer within the Housing Services Unit may be assigned to pursue legal action for anti-social behaviour and criminal activity under the Council's Tenancy Agreement and to apply for Anti-Social Behaviour Orders on behalf of the Local Authority and Gosport Police in relation to its own properties.
- 7.3 On receipt of the consultation form, (appendix G) the Council's link officer will check the relevant sections are completed and justifications for cases where they have not been completed. In addition the link officer will ensure criteria for a Crack House Closure application has been met (please see appendix B).
- 7.4 Once this is established the consultation form will be submitted to the Chief Executive for final agreement and the original signed copy delivered by hand to the Police link officer, usually the ASB Co-ordinator, as soon as practicably possible.

8. HOUSING MANAGEMENT – (Gosport Borough Council, Registered Social Landlords and owned properties)

- 8.1 HO's will supply community intelligence where they have local knowledge that drug activity maybe occurring. Community Safety will collate this intelligence and arrange an exchange of information with the Gosport Police.
- 8.2 HO's will liaise with bailiffs for evictions and securing premises and in conjunction with the Crime Management will carry out a Risk Assessment 7 days prior to the eviction to identify any additional police resources required. If there is intelligence that there may be firearms at the address the Intelligence Unit will escalate this to the relevant Superintendent. The risk assessment will be reviewed immediately prior to the eviction.
- 8.3 For RSL's and GBC owned properties the housing officer will arrange for the premises to be secured for the duration of the closure order, usually by boarding doors and windows; privately owned properties will be the responsibility of The Council Community Safety Unit.
- 8.4 Costs incurred for securing properties will be met by The Housing provider for their tenants and Hampshire Constabulary for privately owned properties (awaiting confirmation from the Police).

9. REHOUSING

- 9.1 Where rehousing – either temporary or permanent - has been agreed by the case conference:
- Housing Services will provide a supporting statement (in liaison with the police and Drugs Liaison Officer) to confirm the reason for urgent rehousing and level of priority.
 - Housing Services will liaise with the tenant – involving the Drug Liaison Officer - to agree rehousing requirements, support needs, etc.
 - HO will then notify Allocations and Advice - providing information on rehousing requirements, area, other special considerations, and target date for rehousing, including the supporting statement.
 - In case of RSLs the expectation is that the RSL will aim to secure temporary rehousing from within its own stock – referral to Housing Options as above may only be necessary where the RSL has limited available properties within the timeframe agreed.

Where a Closure Notice is being served Housing Services should notify relevant agencies including the Council's Homelessness Service to give advance notice of the potential for new cases including vulnerable people who may be made homeless.

10. PUBLICITY

- 10.1 The Police and Gosport Borough Council will take a pro-active approach to publicising Crack House closures as part of a strategy of community reassurance. Press releases will be agreed jointly between the Police Chief Inspector and the Head of Community Safety in liaison with Registered Social Landlords/The Council Service Heads as appropriate.

11. ACCOUNTABILITIES

- 11.2 Accountability for implementing this Protocol will be with

- Police Chief Inspector, Gosport Station
- Gosport Borough Council, Chief Executive

12. PERFORMANCE MANAGEMENT

- 12.1 The effectiveness of this Protocol will be measured using the following key performance indicators:

- **The Council will respond to the Police consultation within 7 working days of receipt.**
- **Where the property is owned by The Council, and a Notice of Seeking Possession or Injunction is required, The council will prepare the case and the notice will be served within two months of the consultation response to the Police.**

- 12.2 Targets and performance indicators will be reviewed annually.

13. CONTACTS

Name	Job title	Contact details	Role
Ian Lycett	Chief Executive GBC		Authorising officer – contact via Jamie O'Reilly
Jamie O'Reilly	Head of Community Safety GBC	023 9254 5501 James.o.reilly@gosport.gov.uk	Delegation of authority
Jamie Paterson	Litigation Lawyer Legal Services GBC	023 9254 5484 Jamie.paterson@gosport.gov.uk	Council Legal Advice
Charles Harman	Head of Operational Services GBC	023 9254 5268 Charles.harman@gosport.gov.uk	Council owned property – press release, delegation of authority
Lesley Small	Senior Operations Officer Housing Services GBC	023 9254 5668 Lesley.small@gosport.gov.uk	Housing owned property link officer
Sharon Dalrymple-Bray	ASB Coordinator GBC	023 9254 5268 Sharon.dalrymple.bray@gosport.gov.uk	Link officer as delegated by Head of Community Safety - informal brief -disseminate information to GBC staff
Jason Kenny	Chief Inspector Gosport Police		Authorising Officer contact via Gary Boud
Gary Boud PC 2497	Anti Social Behaviour Co Coordinator Gosport Police	023 9289 2607 gary.boud@hampshire.pnn.police.uk	

14. Related Documentation for further reading:

Crack House Closure	Anti Social Behaviour Act 2003 S1-11
Housing Injunctions	Housing Act 1996 Part V Chapter 3
	Housing Act 1996 Schedule 15
Anti Social Behaviour Orders	Crime and Disorder Act 1998 S.1
Information sharing	Crime and Disorder Act 1998 S.115

Appendix A

What is a Crack House?

For the purposes of this protocol, a Crack House is defined as:

“Residential *premises” are typically characterised by at least one of the following indicators:

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- The manufacture or supply of cocaine in its derivative form known as ‘crack’.
- The supply of other Class A drugs in combination with or in addition to cocaine.
- The consumption of ‘crack’ cocaine and other Class A drugs within the premises or within the locality of the address concerned.
- Premises visited by a number of people on a regular basis in connection with the intended supply, purchase or consumption of Class A drugs.
- An increase in acquisitive and violent crime in the vicinity of the premises linked to the funding of personal drug consumption.

The presence of any of the following criteria will also be seen as indicators that the supply or use of crack or Class A drugs is taking place and therefore that the protocol should be invoked:

- ‘Frequenting’ of the premises by identified sex workers combined with the use of the premises or its locality for paid sex work.
- Criminal damage of surrounding property or the communal areas of an estate.
- Requests for police to respond to firearm incidents and violent assaults either inside the premises or its locality.
- An increase in volume crime in the locality, e.g. street crime, burglary and vehicle crime
- Complaints by local residents, detailing obscene, threatening or violent anti-social behaviour by the tenant or the tenant’s visitors.
- The intimidation of local residents, council officers and local businesses“
- Ongoing evidence gathering by local Community Wardens or Accredited Community Safety Officers
- SNEN calls, 101 or direct reports made to Community Safety (GBC), the Housing Officer (GBC), RSL or Police

* Premises under sec 5 ASB Act 2003, defines premises and includes: Houses, flats, garages, sheds, refuse rooms, intake rooms, hostel rooms etc.

Appendix B

Closure of a Crack House

For the purposes of this protocol, A Crack House is closed where the following action has taken place:

Section 2 of the ASB Act 2003 relates to closure orders. These can be applied for once a section 1 closure notice has been served. The court must be satisfied that not only have the premises been used for the unlawful supply, use or production of Class A drugs but also that closure will prevent future disorder or serious nuisance. The premises can be closed for up to 3 months and applies to all persons, including owners and residents.

- If a closure notice has been issued under section 1 a constable must apply under this section to a magistrates' court for the making of the closure order**
- The application must be heard by the magistrates court not later than 48 hours after the notice was served in pursuance of section 1(6)(a)**
- The magistrates' court may make a closure order if and only if it is satisfied that each of the following paragraphs applies:-**

- (a) the premises in respect of which the closure notice was issued have been used in connection with the unlawful use, production or supply of a Class A controlled drug;
- (b) the use of the premises is associated with the occurrence of disorder or serious nuisance to members of the public;
- (c) the making of the order is necessary to prevent the occurrence of such disorder or serious nuisance for the period specified in the order.

2(4) A closure order is an order that the premises in respect of which the order is made are closed to all persons for such period (not exceeding three months) as the court decides.

2(5) But the order may include such provision as the court thinks appropriate relating to access to any part of the building or structure of which the premises form part.

2(6) The magistrates' court may adjourn the hearing on the application for a period of not more than 14 days to enable-

- (a) the occupier of the premises,
- (b) the person who has control of or responsibility for the premises, or
- (c) any other person with an interest in the premises,

to show why a closure order should not be made.

2(7) If the magistrates' court adjourns the hearing under subsection (6) it may order that the closure notice continues in effect until the end of the period of the adjournment.

2(8) A closure order may be made in respect of all or any part of the premises in respect of which the closure notice was issued.

2(9) It is immaterial whether any person has been convicted of an offence relating to the use, production or supply of a controlled drug

Closure Orders:

For Closure of Properties being used for the Supply, Use or Production of Class A drugs where there is Associated Nuisance or Disorder

1. INTRODUCTION

- 1.1 Police have powers under the Anti-Social Behaviour Act 2003 to close down properties being used for the supply, use or production of Class A drugs where there is associated nuisance or disorder. Service of a notice temporarily closes down a property to all the public with the exception of the owner and anyone who habitually lives there, until a magistrate's court decides whether to make an order. The court must consider the notice within 48 hours. If it is decided that the relevant conditions are met, the court can make a closure order which closes the premises altogether for a period of up to 3 months, with possible extension to a maximum of 6 months.

2. CRITERIA WHICH MUST BE MET

- 2.1 Community Safety in liaison with the police must ensure that the following test is met when deciding to recommend a Closure Order to the Police Superintendent.
- 2.2 The following test must be met before the Police Superintendent (or officer of higher rank) can authorise the issue of a Closure Notice. Police in liaison with Community Safety Team must therefore provide supporting information to demonstrate that:

- at any time during the relevant period the premises have been used for the use, supply or production of Class A drugs;

and

- the use of the premises is associated with the occurrence of disorder or serious nuisance to members of the public;

- that the local authority has been consulted;

and

- that reasonable steps have been taken to establish the identity of those living on the premises or with an interest in it (Community Safety Team and/or Housing Services to provide names/details).

No drug-specific criminal offence has to be proved before a notice is served or an order made.

3. Closure Notice

- 3.1 The Notice must include details of the time and place of the court hearing in relation to an order and a statement that access to the property during the period is prohibited to anyone other than the person(s) usually resident at the property. It must also contain information about local sources of housing and legal advice.

Community Safety Team and/or Housing Services in liaison with the police, and other agencies as appropriate will need to agree the date the notice is served and an action plan to support other interventions needed from the date it takes effect.

- 3.2 The notice must be attached to the premises, and given to all those living in the premises, and those with an interest in it or whose access to other premises may be adversely affected.

4 CLOSURE ORDER

- 4.1 Once a closure notice has been issued the police must apply to the magistrates' court for a closure order. The court must hear the application within 48 hours from the posting of the notice on the property. The court must be satisfied that conditions under (2) above are met and that the making of the order is necessary to prevent future disorder or serious nuisance.

- 4.2 The order may make special provisions for access to any part of the building in which premises are included (e.g. stairways or shared parts). The court may also adjourn the hearing for up to 14 days to allow the occupier or someone else with an interest in it to show why an order should not be made – for example because the nuisance or disorder has stopped.

5 ENFORCEMENT OF THE CLOSURE ORDER

- 5.1 A constable or any other person authorised by the chief officer of police may enter the property and secure it against entry by any other persons, using reasonable force where necessary; and carry out essential maintenance and repairs.

Prior to a Closure Order being made the police will need to liaise with Community Safety Team and/or Housing Services to agree arrangements/authorisation for entering and securing (and repairing the property where necessary).

6. BREACHES OF THE ORDER

- 6.1 Maximum penalty for remaining in or entering a property subject to a closure notice or order is a fine of £5000, imprisonment for 6 months or both. Power of arrest applies.

7. EXTENSION AND DISCHARGE OF CLOSURE ORDER

- 7.1 The police can apply for an extension of the period for which an order has effect up to a maximum of 6 months (including the period for which the original order had effect. This must be authorised by the Police Superintendent who must:
- have reasonable grounds for believing that the extension of the order is necessary for the purpose of preventing the occurrence of disorder or serious nuisance to the public; and
 - be satisfied that the local authority has been consulted about the intention to make the application.
- 7.2 A constable, the local authority, persons on whom the closure notice was served and anyone with an interest in the property can apply for the order to be discharged.
- 7.3 Any decision by the police – or request from Gosport Borough Council - to apply for an extension or discharge of an order must be made in liaison with relevant parties, via Community Safety Team
- 7.4 Similarly, the outcome of an application to extend or discharge an order must be notified to relevant parties via Community Safety Team

8 APPEALS

- 8.1 Appeals against Closure Orders and against a refusal to make one can be made to the Crown Court by all interested parties.

9 ACCESS TO OTHER PREMISES

- 9.1 A court can make an order concerning access to any part of the building in which closed premises are situated, where it is not affected by a closure order. A person can apply to the court to enable him/her to retain access. The court can exercise its discretion and make a variation of the original order.

10 REIMBURSEMENT OF COSTS

- 10.1 The court can make an order that the owner of the premises must reimburse any costs incurred by the police or local authority in clearing or securing the property.

11 EXEMPTION OF LIABILITY FOR CERTAIN DAMAGES (SECTION 9)

- 11.1 Partial exemption is given from liability in damages for the police in carrying out their functions. It does not extend to any acts in bad faith or acts which are in breach of the police's duty as a public authority to exercise their functions compatibly with the European Convention of Human Rights.

12 COMPENSATION

12.1 Compensation payments can be made by a court out of central funds where it is satisfied that:

- a person has suffered financial loss as a result of a closure notice or order being made; the person had no connection with the use of the premises subject to the order for the use, supply or connection of Class A drugs (such use having been associated with disorder or serious nuisance);
- if he/she is the owner or occupier that he took reasonable steps to prevent that use; and
- if it is appropriate in all the circumstances to compensate the person for that loss.

INFORMATION SHARING

'It is only appropriate to share information that will enable the agencies to achieve their joint objectives to resolve crime and disorder.

Information shared is only for the resolution of crime and disorder in relation to all issues discussed and no secondary use of this data can be made.

Each partner is responsible for ensuring that any information they provide is accurate, complete and up to date. They are also responsible for notifying all other agencies if there are any changes to the information supplied.'

Section 115 of the Crime and Disorder Act 1998 provides that any person (whether a private individual or a member of a public body) can 'lawfully disclose information where necessary or expedient for the purpose of any provision of the Act to a relevant authority or person acting on behalf of such an authority even if he or she would not otherwise have this power'.

The Data Protection Act 1998 exempts from its normal restrictions the disclosure of personal information for the purpose of prevention or detection of crime or apprehension/prosecution of offenders where failure to disclose would be likely to prejudice those objectives in a particular case.

Assessment of Vulnerability

It is assumed in this document that tenants will not be defined as having a disability simply because of the alcohol/drug misuse. Instead, this document considers the concept of vulnerability. However, the distinction between disability and vulnerability is not clear-cut, and many tenants may have disabilities arising from or in parallel with the alcohol/drug misuse.

Where a tenant is identified as having a disability the Council is required to consider its obligations under the Disability Discrimination Act in addition to the following.

5.2 **A Vulnerable** tenant is defined as someone who:

- Would benefit from a drug/alcohol treatment programme, or is in recovery, **and** their present housing circumstances are, or would, detrimentally affect the programme or recovery; and/or,
- Has known vulnerabilities of any other nature (e.g. victim of domestic violence)

5.4 Factors to take into account:

- Does the tenant have effective control over his/her life-style and the management of the tenancy? Or,
- Would alternative accommodation and/or support or other intervention overcome the present barriers to cessation of misuse? (e.g. a rough sleeper would suffer detriment if misusing, but if the person is currently misusing in suitable accommodation there is likely to be no distinction in level of detriment whether accommodated or not. This would mean the person would not be vulnerable due to misuse issues)

5.5 **A Non-vulnerable** tenant is defined as someone who:

- Is clearly not vulnerable and making an informed life-style choice; or
- May be vulnerable but not engaging with support services or refused a suitable offer of re-housing (to be assessed in reference to accommodation and support needs)

5.6 **Factors to take into account:**

- Does the tenant have a history of Class A drug supply or the tenant is believed to be involved in or assisting the supply of Class A drugs?
- Is the tenant voluntarily allowing the residence to be used for the supply or use of Class A drugs and/ or communal or personal consumption of Class A drugs?
- Is there violence, intimidation or acquisitive crime linked the premises?
- Has the tenant a history of perpetrating or allowing anti-social behaviour to take place from the premises?
- Has the tenant threatened neighbours, housing staff or other visitors?

- 5.7 The procedure from hereon in will depend upon whether the Housing Options initially identifies the tenant as 'vulnerable'. Time **Target 5 working days**.

VULNERABLE	NON-VULNERABLE
Convene Nuisance Case Management Meeting within 15 working days. This will include a Risk/Special Needs Assessment for the purposes of considering temporary/permanent rehousing. Action: HO to set up meeting	Consider Closure Order – see Appendix C (Closure Orders) Action: HEO (in liaison with police/ Drugs Liaison Officer) to assess and make recommendation to Police Superintendent
Consider Closure Order where vulnerable tenant has been moved from property Action: As set out for non-vulnerable tenant	Bundle up paperwork and pass to solicitors within 5 working days for fast-track Notice Seeking Possession and/or injunction/ASBO Action:HO

Vulnerable - Referral Case Conference:

- 5.8 The Housing Officer will inform the tenant of the initial assessment before the case conference, and in conjunction with HO liaise with Social Services and other support services to exchange information, assess the needs of the tenant and identify an appropriate support package. The case conference will then be in a position to make an informed decision on how to progress the case based on up-to-date information and whether the tenant has engaged with the support services and an agreed treatment package is in place.

- Landlord prepares written report;
- Landlord can address a panel of Council officers including (at least) Operational Services rep: Housing Options rep.

- 5.9 The referral case conference will also consider resettlement where this is:

- recommended by the Drug Liaison Officer on the basis of 'special needs' (and will 'close' the Crack House); or is
- identified as an exceptional control measure using the victim re-housing risk assessment model.

For re-housing on the basis of risk, HO will use the existing Housing Risk Assessment procedure, including consideration of temporary accommodation where the risk assessment is HIGH and the need to move is CRITICAL. If re-housing is recommended by the Drug Liaison Officer, this will be considered. Most cases would likely need some form of "controlled" accommodation i.e. hostel or accommodation with support. In exceptional cases alternative permanent accommodation might be an option in which case referral to the Management Re-housing Panel would apply.

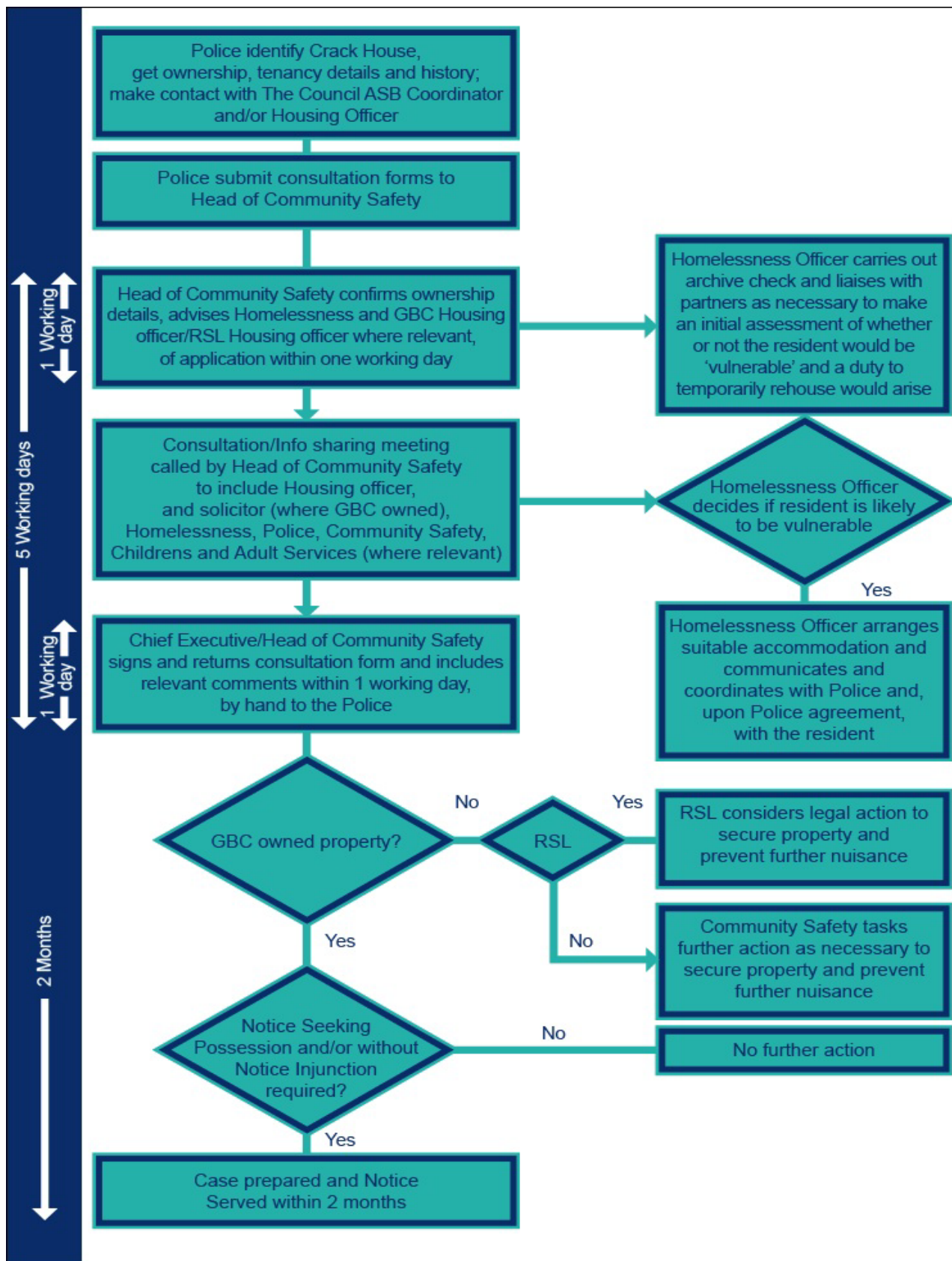
- 5.10 An action plan will be agreed, to include target date for re-housing, and other interventions as considered appropriate.
- 5.11 The case conference will also consider if a Closure Order is an appropriate control measure. Where it is agreed, HSM will make a recommendation to

the Police Superintendent that a Closure Order be sought with supporting background information,

Non-Vulnerable:

A decision will be taken on whether to recommend a Closure Order to the police.

- 5.13 Where action is taken to repossess the property by evicting the tenant or where an application for an ASBO or injunction is made, HO will provide feedback on the progress of cases through the court and the results obtained. This will assist police in identifying any weaknesses in the case and addressing any operational issues.



AGENDA ITEM NO. 8

Board/Committee:	Policy And Organisation Board
Date of Meeting:	25 th January 2010
Title:	Rogers House Redevelopment/OH
Author:	Housing Services Manager
Status:	For Approval

Purpose

This report outlines the progress made in developing plans for the future of Rogers House, Lee on the Solent.

A progress report on the project was last given to Housing Board in January 2009; however there have been a number of minor changes to the scheme since that time and some unforeseen delays. These proposals are subject to planning approval and to securing funding for the scheme from the Homes and Communities Agency.

Recommendation

That the Policy and Organisation Board approves:

- a) That the land and associated buildings at Rogers House be transferred to Guinness Hermitage Housing Association, for £1 and on such other terms to be agreed and subject to planning approval.
- b) Authority is delegated to the Housing Services Manager in conjunction with the Borough Solicitor to finalise the detailed terms of the transfer of the land.

1.0 Background

- 1.1 At the Housing Board meeting of the 10th September 2008, a report on the proposed plans for Rogers House. The report presented outlined progress with the scheme so far and sought authorisation for the Housing Services Manager to work up more detailed proposals for the site at Rogers House with a partner RSL and to bring these proposals to Housing Board for approval once they became sufficiently advanced.
- 1.2 Additionally, it was agreed to continue the re-housing and redevelopment proposals and to bring back to the January Housing Board a progress report on these areas.
- 1.3 The report presented in September 2008 referenced an earlier decision taken in June 2007 to bring forward redevelopment

proposals for three sheltered schemes at The Leisure, Rogers House and Agnew House in partnership with our Housing Association Partners.

- 1.4 The report presented to the Housing Board on January 21st 2009 provided details of the proposed scheme at Rogers House together with details of the new plans including number of units proposed, tenure, rents and expected timetable and funding arrangements.
- 1.5 This report seeks the approval of this Board to dispose of the land and clarifies the small changes that have been made to the scheme since then.

2.0 Report

- 2.1 The report to Housing Board of 21st January 2009 remains largely accurate and provides useful background to this scheme.
- 2.2 The number of homes to be provided at Rogers House has reduced by one from 40 to 39. This was recommended in discussions with Development Services Unit.
- 2.3 The mix of homes to be provided is now:

18 x 1 Bedroom apartments
(includes one to full wheelchair standard)
21 x 2 bedroom apartments
(includes one to full wheelchair standard)

Total 39.

- 2.4 The proposals have been worked up following the report submitted to Housing Board in January 2009. In late September 2009, final plans were submitted for consideration by a meeting of the Regulatory Board .These are due to be considered by the Regulatory Board on the 19th of January 2010 , and the decision of that Board will be known by the date this meeting of the Policy and Organisation Board. A verbal update will be provided at this meeting.
- 2.5 Tenure options were discussed in the January 2009 Housing Board report. As the economic climate is still uncertain the bid to the Homes and Communities Agency for funding will be on the basis of a wholly rented scheme. However, should economic conditions improve an element of Leasehold for the Elderly (LSE) is still an aim, if the market for this type of tenure improves.
- 2.6 Subject to the approval of the Regulatory Board and all the necessary funding approvals from the Homes and Communities

Agency this site could be transferred in Spring 2010. The scheme would be completed in late summer 2011.

3.0 Risk Assessment

3.1 The risks associated with this report include:

- Obtaining funding for the scheme from the Homes and Communities Agency (medium to low risk)
- Local objections and failure to gain planning approval for the scheme (low risk)
- The financial planning for the scheme in relation to tenure mix (low/medium risk).

3.2 The previous success of Guinness Hermitage Housing Association and their track record of delivery of schemes means that the risk of obtaining funding from the Homes and Communities Agency is a low risk. Funding is subject to successful bidding, but it is anticipated that funding will come forward for this scheme. It should be noted that no bids to the HCA will be submitted until such time as planning approval and the approval of this Board is obtained.

3.3 Local consultation that has taken place with stakeholders and the joint working with the Development Services Unit in order to develop a scheme (in terms of design) that ensures it will meet local needs and planning requirements and reduce the risk of local objections and failure to gain planning approval.

3.4 The final tenure mix will be determined, subject to the how financial outcomes in relation to the development of the scheme, and a view on the market condition that prevail in relation to any units that may be available to purchase. This would be dependent on an improvement in the market conditions. The land transfer will take account of this should market conditions improve.

4.0 Summary

4.1 This report describes the progress so far in developing proposals for the redevelopment of Rogers House, Lee on the Solent. It details proposals for the site and seeks approval for disposal of the land.

Financial Services comments:	None for the purposes of this report
Legal Services comments:	The Council has the power to dispose of the land on the basis set out in the report and in accordance with the consent of the Secretary of State. The procurement of any contract under the proposed disposal will have to comply with EU procurement law.
Service Improvement Plan implications:	Delivering the outcomes of the Best Value Review of sheltered housing is a key Service Improvement Plan target.
Corporate Plan:	n/a
Risk Assessment:	As identified in paragraph 3 the risk is medium to low
Background papers:	10.09.08 Proposed plans for Rogers House, Lee on the Solent 21.1.09 Proposed Plans for the Redevelopment of Rogers House, Lee on the Solent
Appendices/Enclosures:	n/a
Appendix 'A'	n/a
Appendix 'B'	n/a
Report author/ Lead Officer:	Oona Hickson 023 9254 5292

AGENDA ITEM NO. 9

Board/Committee:	POLICY AND ORGANISATION BOARD
Date of Meeting:	25 JANUARY 2010
Title:	CONTRACT PROCUREMENT PROCESS AND TIMETABLE
Author:	CHIEF EXECUTIVE
Status:	FOR DECISION

Purpose

To seek the Board's approval for the procurement process and timetable in respect of Grounds Maintenance, Street Cleansing, Public Toilet Cleansing and Maintenance, Refuse Collection and Housing Services and Council Asset Management contracts on an Open Book Accounting/Partnership arrangement.

Recommendation

That Board:

Approves the process and timetable for the procurement of the services as identified in the report.

1 Background

- 1.1 A number of significant contract arrangements providing services for the Council (see Appendix 1A below) are due to end in March 2011. The total contract sums are, combined, in the region of £9.3m per annum.
- 1.2 A corporate officer group has been considering options available to the authority in preparation for the procurement process that needs to take place throughout 2010. This Major Contract Procurement Sub Group has been taking guidance from the South East Improvement Partnership.
- 1.3 In addition the Major Contract Procurement Sub Group canvassed opinion at a Suppliers Day event held in November 2009 at Explosion! An invitation was extended to 42 contractors known to be potential bidders for the available contracts. The aim was to engage with those major contractors to enable the Council to better understand how best to package the contracts.
- 1.4 The strategy for the procurement process as set out in the body of this report has been informed by the advice of the South East Improvement Partnership, the feedback from the Suppliers Day event and the Council's Procurement Strategy.
- 1.5 The procurement process also needs to cater for the following:
 - Responding to the Governments Efficiency Programme and agenda for savings in procurement.
 - Key Lines of Enquiry (KLOE) from the Audit Commission and specifically KLOE 3 the Value for Money KLOE (32)
 - The new EU Consolidated Procurement and The Public Contracts Regulations 2006.

2 Report

- 2.1 All procurement will comply with the EU Public Procurement Directives, the principles of non-discrimination, equal treatment, transparency and the UK law. Contracts will be awarded fairly and transparently and in accordance with the evaluation criteria specified in the invitation to tender (ITT). For these large, long term contracts, bidders will be invited to demonstrate their track record in achieving value for money through effective use of their supply chain.
- 2.2 The Council has an objective of encouraging a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers. The expectation is that successful contractors will have demonstrated how they can support Council policies, priorities and social responsibility and its aim to encourage community benefits without disadvantaging non-local suppliers.
- 2.3 In addition, all bidders will be required to demonstrate their own commitment to equal opportunities through their employment and service delivery practices and must comply with the Council's statutory equality duties.
- 2.4 The procurement for these significant contracts will be based on a whole life costing and benefit.
- 2.5 The Major Contract Procurement Sub Group is minded, as a consequence of feedback from the Suppliers Day, advice from the South East Improvement Partnership and in keeping with the Council's Procurement Strategy that;

Contract lengths; would be 10 years with up to 3-5 year extension (with break clauses)

Style of Contract; would be a Partnering Approach & Open Book Accounting for all contracts. Flexible contracts (with appended working practices). In keeping with the Council's Procurement Strategy statement "*For strategic (high-risk, high value) procurement the Council investigates partnering arrangements to develop strategic partnerships*".

The evaluation; would be on a 60%/40% Quality/Price Split in keeping with current industry practice

Call Centre(s); to be provided by Contractor(s) similar to the successful arrangement currently within Housing Services

Existing Depot; will be presented to successful Contractor(s) as an option to base their services. Connaught, Enterprise and Verdant currently use the former Council Depot at Wilmott Lane for the delivery of their contracts

- 2.6 The basic contract packages have been identified as;
 - **Asset Management R&M Contract;** *including Housing Reactive & Planned, Generic Council Asset Repairs & Maintenance, Town Hall Repairs, Public Convenience Repairs and Maintenance (R&M), Leisure R&M*

- **Grounds Maintenance**
- **Street Cleansing and Public Convenience Cleansing**
- **Waste/Recycling**
- **Specialist Contracts;** Gas Installs & Servicing, Communal Decorations (both Housing)

- 2.7 It is proposed that these contract packages are also made available for bidding in various pre-determined combinations, for example Cleansing and Waste/Recycling combined. An option is also likely to be presented to allow bids by one company for all services being tendered.
- 2.8 Members should note however that the intentions outlined in (2.5, 2.6 & 2.7) above may require adjustment as the Council goes through the procurement process when other preferential options may be identified. There is also still the need to further explore current “off-contract” spend within the Council and plan to extend procurement contracts to cover at least a proportion of this expenditure in order to satisfy EU procurement requirements.
- 2.9 The complexity of procuring services; the wide range of options available, the statutory requirements, the impact of European Procurement Directives (and recent changes) and the limited in-house knowledge base combine to make this a high risk process. External support is essential (see Risk Assessment 4.3 below). External support has been identified to assist officers within the Major Contracts Procurement Sub Group to mitigate those risks.

3 Timetable

- 3.1 The proposed key events timetable is outlined as below, a more detailed timetable is outlined in Appendix 1B);

Soft market testing/Visits	January 2010
Set up & Train Evaluation Working Group(s)	April-June 2010
Develop Pre-Qualification Questionnaire PQQ)	April 2010
Develop Invitation to Tender Document (ITT)	(end) June 2010
Send out ITT	July 2010
Place OJEU/Adverts	May 2010
Send out PQQ's	July 2010
Evaluate ITT's	August 2010
Report to Special P&O Board	(end) Sept 2010
Appoint Successful Contractors	October 2010
Mobilisation	October 2010
Start on Site	17 th March 2011

- 3.2 There will be a requirement that an advert be placed in the European Journal and trade magazines by May 2010 inviting expressions of interest from suitably qualified and experienced contractors. Interested contractors will be required to complete a pre-contract selection questionnaire.
- 3.3 Once prices have been returned, and following site evaluation visits, each contractor would then be asked to present their submissions. It would be anticipated that the evaluation process would then result in (likely) two contractors to progress onto the

negotiation phase of the tender.

- 3.4 An officers' group would then conduct the final negotiations with the last bidders on a 'preferred bidder' and 'first reserve' basis.
- 3.5 A report will be presented to a Special Policy And Organisation Board (September/October) recommending the proposed contractor(s) to be awarded the contract(s).

4 Risk Management

- 4.1 There are potential risks associated with the management of this initiative to procure services. The likelihood of the event(s) occurring (without controls) are shown in brackets.

Professional (Operational);

Inefficient and/or ineffective processes (medium)
Over reliance on key officers (medium)

Financial (Operational);

Failure of major project(s) (medium)
Failure to prioritise, allocate appropriate budgets and monitor (low)
Missed business and service opportunities (high)

Legal (Operational);

Breach of European Directives on Procurement of Services/Works (high)
Legal challenge as a consequence of the above (high)

Contractual (Operational);

Failure of contractor to deliver (see 2.9) (low)

Political (Strategic)

Unfulfilled promises to electorate/customer base (medium)

Reputation Management (Strategic);

Negative publicity: (Public/press interest/ awareness) (medium)

- 4.2 The severity of the risks are assessed as follows (with controls):
 - a. Breach of European Directives (low)
 - b. Legal challenge (Medium – potentially in excess of £0.5M)
 - c. Operational financial cost (High): (over £100k)
 - d. Reputational risk - negative publicity (Medium): (Local or public interest/National public or press aware).

P R O B A B I L I T Y	HIGH	M	H	H
	MEDIUM	L	Legal (b) & Reputation M	Financial H
	LOW	Legal (a) L	L	M
		LOW	MEDIUM	HIGH
Impact (with Controls in Place)				

4.3 The controls in place to mitigate risk are as follows:

- An established procurement framework (Professional)
- Wide officer involvement in Procurement group (Professional)
- Advice sought from external procurement specialists (Legal/Financial)
- Advice sought from external Legal Procurement specialists (Legal/Financial)
- Regular (internal) budget meetings (Financial)
- Established consultation framework (Financial & Political)

4.4 Should the recommendations in this report be approved, then the overall likelihood of risks materialising (4.1), with controls in place, (4.3) is assessed as **Medium**.

5.0 Summary

- 5.1 A number of major contracts are due for renewal in March 2011. This represents an opportunity to develop the Council's procurement and contract arrangements basing these new contracts on the successful Open Book Accounting/Partnering arrangements that have delivered quantifiable benefits within the Housing Service.
- 5.2 The options will also ensure that due consideration is given to a procurement model that allows smaller local contractors to provide elements of the service either directly or through an integrated supply chain, to ensure local responsiveness within the confines of the broad EU Regulations and having regard to Council policies and Corporate Plan objectives.

Financial Services comments:	As contained in the report
Legal Services comments:	Set out in the report
Service Improvement Plan implications:	Major Contract procurement is a SIP initiative for 2010-11 within Environmental and Housing Services
Corporate Plan:	<i>Prosperity</i> (theme); Attracting Investment to Gosport's economy & Maximising local employment opportunities(priorities). <i>Pursuit of Excellence</i> (theme); Delivering quality services(priority)
Section 17 Crime & Disorder Act 1998	Not applicable
Risk Assessment:	See 4.0
Background papers:	Gosport Borough Council Procurement Strategy 2009 – 2011
Appendices/Enclosures:	
Appendix '1A'	Contract details
Appendix '1B'	Procurement Timetable
Report author/ Lead Officer:	Stevyn Ricketts (X 5282)/Charles Harman (X 5287)

APPENDIX 1A

Contract Works	Annual Value	Current Contractor	Date of expiry of Arrangement
Reactive Repairs & Voids Maintenance Service	£1.9m (£1.3m & £0.6m)	Connaught	March 2011
Planned Maintenance Service	£3.5m (variable)	Connaught	March 2011
Gas Servicing	£0.3m	1 st Saxon Clemay	March 2011
Heating Installation & Electrical	£0.3m	1 st Saxon Clemay	March 2011
Communal Decorations	£0.3 m	Richardson's Decorating	March 2012 (with option for 2 year extension)
Grounds maintenance	£0.77m	Enterprise	March 2011
Street cleansing and public toilet cleansing	£0.79m	Enterprise	March 2011
Refuse Collection	£1.45m	Verdant	March 2011

APPENDIX 1B

Visits and soft market testing	January 2010
Summary Report	End January 2010
Procurement Options	
Undertake review of Procurement Options	February – March 2010
Procurement Option Appraisal	
Develop Implementation Strategy	April 2010
Procurement of Contracts	
Procurement Launch Workshop	April 2010
Develop & Agree Cost Model	April 2010
Award Criteria	April 2010
Develop PQQ	April 2010
Place OJEU/Adverts	May 2010
Process Map & Develop Specifications	May 2010
Develop KPI Handbooks	June 2010
Contract Development	June 2010
Develop ITT	End June 2010
Train & Develop Evaluation Groups	End June 2010
Shortlist PQQs	End June 2010
Issue ITTs	July 2010
Mid-Tender Briefing	Mid July 2010
Evaluate ITTs	August 2010
Evaluation Visits (Assumes 5 visits at 1 per day)	August-September 2010
Interviews (assumes 1 day)	Late September 2010
Appoint	October 2010
Mobilisation workshop	Mid October 2010
Mobilisation of new Contract(s) (5 months)	October 2010 – April 2011
Start on Site	17th March 2011

GOSPORT BOROUGH COUNCIL

REFERENCE

**TO: POLICY AND ORGANISATION BOARD –
25 JANUARY 2010**

**FROM: COMMUNITY AND ENVIRONMENT BOARD –
18 JANUARY 2010**

TITLE: NEW STORE AT MIDDLECROFT ALLOTMENT

**AUTHOR: DIRECTOR OF ECONOMIC DEVELOPMENT, TOURISM
AND THE ARTS**

Attached is a copy of the report that was considered by the Community and Environment Board on the 18 January 2010 (Appendix 'B'), together with the Minute extract and Board Resolution (Appendix 'A').

RECOMMENDATION:

To follow

APPENDIX 'A'

EXTRACT FROM THE MINUTES OF THE
COMMUNITY AND ENVIRONMENT BOARD MEETING
18 JANUARY 2010

NEW STORE AT MIDDLECROFT ALLOTMENT

To follow

APPENDIX B

Board/Committee:	Community and Environment Board
Date of Meeting:	18 January 2010
Title:	New Store at Middlecroft Allotment
Author:	Director of Economic Development, Tourism and the Arts
Status:	For recommendation to Policy and Resources Board 25 January 2010

Purpose

To seek approval for the grant of a lease of land to the Allotment Holders Association for the purpose of constructing a new store in the location shown coloured red on Plan 1.

Recommendation

To approve the grant of a lease of the Council land shown on plan 1 on terms to be agreed by the Council's Head of Property Services.

That the Borough Solicitor be authorised to enter into such documentation as is necessary to effect the above decision in consultation with the Head of Property Services.

That authorisation is sought from the Policy and Organisation Board to proceed, should the Board agree with the above recommendations.

2 Report

- 2.1 The existing allotment store is in a poor state of repair. Following an inspection and structural survey by the Council's Structural Engineer it was recommended that the store be replaced.
- 2.2 The Allotment Holders Association will secure funding for replacing the building with a new concrete sectional garage but to do so will require a lease from the Council of the site for the new store.
- 2.3 It is proposed that a ground lease be granted for a term of 15 years at a peppercorn rent.

3 Risk Assessment

- 3.1 The building is dilapidated and in need of replacement as a consequence of this there are risks associated with its continued use.

4 Conclusion

- 4.1 The grant of a ground lease will enable the Association to replace the old dilapidated building with a new structure.

Financial Services comments:	None
Legal Services comments:	The Council may complete the Lease referred to.
Service Improvement Plan implications:	None
Corporate Plan:	None
Risk Assessment:	As above
Background papers:	None
Enclosures:	Plan 1
Report author/ Lead Officer:	Head of Property Services

GOSPORT BOROUGH COUNCIL

REFERENCE

**TO: POLICY AND ORGANISATION BOARD –
25 JANUARY 2010**

**FROM: COMMUNITY AND ENVIRONMENT BOARD –
18 JANUARY 2010**

TITLE: ALVER VALLEY - MANAGEMENT OF FISHING LAKE

AUTHOR: LEISURE AND CULTURAL SERVICES MANAGER

Attached is a copy of the report that was considered by the Community and Environment Board on the 18 January 2010 (Appendix 'B'), together with the Minute extract and Board Resolution (Appendix 'A').

RECOMMENDATION:

To follow

APPENDIX 'A'

EXTRACT FROM THE MINUTES OF THE
COMMUNITY AND ENVIRONMENT BOARD MEETING
18 JANUARY 2010

ALVER VALLEY – MANAGEMENT OF FISHING LAKE

To follow.

APPENDIX B

Board/Committee:	COMMUNITY AND ENVIRONMENT BOARD
Date of meeting:	18 JANUARY 2010
Title:	ALVER VALLEY – MANAGEMENT OF FISHING LAKE
Author:	LEISURE & CULTURAL SERVICES MANAGER
Status:	FOR DECISION

PURPOSE

To advise the Board of the recommended action agreed by the Alver Valley Steering Group in respect of the future management of the Alver Valley fishing lake.

RECOMMENDATION

The Board is recommended to approve

- (i) The grant of a lease of the Council land shown on Plan 1 on terms to be agreed by the Council's Head of Property Services.
- (ii) That the Borough Solicitor be authorised to enter into such documentation as is necessary to effect the above decision in consultation with the Head of Property Services.
- (iii) That authorisation is sought from the Policy and Organisation Board to proceed, should the Board agree with the above recommendations.

1. BACKGROUND

- 1.1 The Alver Valley Country Park has been a long term objective of the Council and work has been progressing over recent years to implement the Management Plan that was approved by the Council in June 2003.
- 1.2 Within the proposed Country Park is a lake, known as the RMC Lake that has been used for fishing for many years. The Alver Valley Management Plan proposes that this lake continues to be used for fishing subject to a suitable management regime.
- 1.3 The Alver Valley Steering Group has considered this matter in recent years and has put forward a recommended course of action as outlined in this report.

2 REPORT

- 2.1 The Steering Group invited tenders from interested fishing clubs and, subsequently, received a proposal from the Portsmouth & District Angling Society (the Society).
- 2.2 The tenders were required to address a list of criteria that were considered appropriate to provide competent management of water areas for fishing.
- 2.3 The tender from the Society meets the Council's requirements as laid down in the criteria.
- 2.4 Having considered the proposals from the Society, the Steering Group agreed that it would wish to recommend to this Board that the Council enters into a lease with the Society for a 10 year period in line with the terms laid down in the criteria and their proposal. Minutes of the meetings of the Steering Group 31 October 2006 and 04 December 2006 are attached as Appendix B.

3 FINANCIAL IMPLICATIONS

- 3.1 The Society has indicated a commitment to undertake works to improve the Lake for fishing. This will include provision of new 'swims' and platforms from which anglers fish. An initial estimate of £2000 is a minimum investment that the Society believes is necessary.
- 3.2 As the Society will also provide warden / bailiff duties at the Lake and surrounds, it is proposed that a peppercorn rent is charged for the 10 year period. Following the completion of this period, the financial situation can be reviewed for future requirements and implications.

4 RISK ASSESSMENT

- 4.1 The use of designated water areas within the Alver Valley for fishing is identified within the Master Plan for the Alver Valley Country Park. The Steering Group believes that the designated area should be restricted to the former RMC Lake only. This seeks to avoid either neglect or incorrect use of all water areas within the boundary of the Country Park.
- 4.2 As the Council does not have the necessary angling management expertise within its staffing resources, it was decided to invite tenders from appropriate organisations with extensive experience of fishing, to achieve effective angling management.

5 CONCLUSION

- 5.1 The proposal is to complete negotiations with the Club and to enter into a 10 year lease arrangement. This period of time also allows the Club to seek external funding in support of the development of its angling objectives.
- 5.2 The Club's proposal has addressed the tender criteria and details are described in Appendix A.

Financial Services comments:	It is proposed that a peppercorn rent is charged for the lease as the Society have undertaken to commit to managing the Lake and implementing a range of fishing improvements without cost to the Council.
Legal Services comments:	The Council can enter into the Lease referred to above, but must receive best consideration when the rent to be paid is determined. Best consideration can be a peppercorn, as the Lease will oblige the Lessees to implement improvements and provide warden services.
Service Improvement Plan implications:	The proposed action is included within the Leisure & Cultural Services Plan.
Corporate Plan:	The proposal meets the Strategic Priorities of (i) People - better leisure facilities and increased usage; (ii) Places - quality public areas and green spaces; (iii) Prosperity - improved social inclusion
Risk Assessment:	See Section 4 of the report.
Background papers:	N/A
Appendices / Enclosures:	
Plan 1	Alver Valley Country Park
Appendix 'A'	Appendix A – Basis of Society's Proposals
Appendix 'B'	Appendix B - Minutes of meetings of the Alver Valley Steering Group October and December 2006
Report Author / Lead Officer:	Leisure & Cultural Services Manager

APPENDIX A

BASIS OF TENDER PROPOSALS FROM PORTSMOUTH & DISTRICT ANGLING CLUB

Nb. Club proposals are in *italics*

1. Tenure

Tenders should indicate the preferred period required. In any event, this is likely to be not less than ten years.

The Club have agreed that a 10 year period will be acceptable.

2. Membership and Access

Tenders should state:

i) The type of membership scheme in use, indicating categories of membership;

11 categories are available totalling over 500 members, 40% within postcodes PO11, 12, 13 and 17

ii) The prices charged to different categories of membership;

These range from under 12's being free, through Junior at £20, Senior Citizen at £38 to Adult at £75. Family membership is available at £120

iii) The procedure to review fees;

To be clarified

iii) The entitlement / benefits that membership confers on each member;

All membership benefits apply to all classes

iv) whether restrictions are applied to any member depending upon home address;

Fully open membership scheme without restriction

v) How the Club will actively promote the activity to local people, especially to local youngsters;

See 4 (ii) and 5.1

vi) what provision will be in place for people who want to fish on a casual basis?

All categories of the community are accommodated within the Club's structure with equal benefits applying to all members.

3. References

Tenders should:

- i) Clearly state the number and types of facilities operated;

The Society manages over twelve (12) Lakes and Rivers on behalf of Hampshire County Council, Portsmouth City Council, West Sussex County Council and The National Trust. They also manage three waters in the Gosport area namely; Brockhurst Moat, Brownich Lake and Abshott Pond.

They work closely with the Environment Agency, English Heritage and Natural England, and manage waters to SSSI standard.

- ii) Include a minimum of two organisations from which references can be obtained;

Satisfactory references have been received from Hampshire County Council and Portsmouth City Council for management of water areas in their respective ownership.

- iii) Demonstrate membership of an appropriate affiliated / governing body representing fishing interests / activities.

P&DAS is affiliated to the Angling Trust (formerly, National Federation of Anglers and ACA) Founder member of Hants & Sussex Anglers Association (founded 1975)

4. Business Planning

Tenders should include:

- i) A Business Plan to show how the Club will operate its business to achieve the overall aim of effective management of the designated fishing area.

The development of the Alver Lake project will be controlled by the Societies Fishery Management Officer. A programme plan will be developed with help from the Environmental Agency (EA) where, a water quality survey will be carried out along with a Fish stock and plant life survey, to identify the best way forward to develop a General fishery to support everyday angling (Family, OAP, Disabled and Juniors).

On-going and future maintenance of the fishing areas, to include existing and new fishing stations, this work will be the responsibility of the Fishery Management Officer. This role within the society is the responsibility for the upkeep of the waters, fish stocks, tool stocks, development of and implementation of the fisheries policy approved by the management committee.

The development of the Alver Lake project will be controlled by the Societies Fishery Management Officer. A programme plan will be developed with help from the Environmental Agency (EA) where, a water quality survey will be carried out along with a Fish stock and plant life survey, to identify the best way forward to develop a General fishery to support everyday angling (Family, OAP, Disabled and Juniors).

This work will be carried out by the Societies membership where, planned and organised working parties will be managed to complete the planned development of the fishery.

The planned work will be to carry out the following

- *Bankside clearance*
- *Hedgerow and Grass cutting*
- *Swim Station building*

ii) A description of activities and events e.g. competitions and what provision will be made for instruction / development for beginners / improvers etc.

The Society will develop the Alver Lake into a General fishery to support Family, Junior, Disabled and Old Age Pensioner Angling. This fishery will be developed into a Safe Environment with good Access and Swim Stations.

5. Sustainability, Infrastructure and Operations

5.1 Tenders should explain the Club's philosophy of how it operates its activities.

Portsmouth and District Angling Society operates its business conducted by a management committee which consists of a Chairman, Vice-Chairman, Honorary Secretary, Honorary Treasurer, Fishery Officer, Development Officer, PR Officer, Competition Secretary, Alliance delegate, Affiliations Delegate, Junior Co-ordinator and two committee Members. Over the course of a membership year a series of meetings are held to conduct and sustain the society's business, which are as follows:

*Management Committee (Monthly)
Annual General Meeting (yearly)
Extraordinary General Meeting (as required)
Disciplinary Committee (as required)
Wardens and Bailiff's meeting (Bi-monthly)*

The objectives of the Society are:

- *To provide fishing waters*
- *Promote good fellowship within the Society and with other Societies*
- *To educate all members by practical tuition*
- *To promote competition within the Society and with other Societies*
- *To promote specimen angling*
- *To encourage family pleasure angling*
- *To encourage conservation and the improvement of the environment*
- *To promote the good image of angling*

5.2 The Tender should also include how the Club will identify:

i) on-going and future maintenance of fishing areas, to include existing and new fishing stations;

See under Section 4 Business Planning

ii) The form of supervision / warden duties to be undertaken;

To be clarified

iii) Adequate provision for disabled users;

There will be adequate provision for disabled usage on the Alver Lake.

iv) Effective and approved husbandry of fish stocks;

There will effective and approved husbandry of fish stocks; this will be planned and approved by the Environment Agency.

v) A timetable of the proposed open / closed season dates with daily times where relevant.

OPEN 1st April – 31st January CLOSED: 1st February to 31st March

6. Finance & Administration

6.1 Tenders should include:

i) A copy of the Club's management structure, rule book and constitution;

iv) A copy of the Club's accounts for the past three years;

vi) A copy of the Club's insurance policy and current certificate.

These have been received, inspected and found to be satisfactory

6.2 Tenders should indicate:

The Society will develop the Alver Lake from finances within the Society using its own membership subscriptions, applied grants for water development and re-generation.

i) What payment it would be prepared to make to the Council for the Agreement;

The P&DAS would be prepared to make a peppercorn payment, during the lease agreement while the Alver lake project is under development and review further lease payments once the development was complete and the water opened for General and day ticket usage; the development is estimated to take a five (5) year period.

ii) What funding, if any, is required from the Council and for what purpose?

There would be no funding requested from the Gosport Borough Council directly. The only commitment from the Council would be for road access to the site for disabled and OAP access for safety.

iii) What funding will be necessary to deliver the Business Plan and how this may be obtained?

At present an estimate of the funding cannot be offered until all the surveys have been carried out to establish a complete budget. The initial outlay from the Society to enable a development plan to be established is Approx £2000.

Minute of Meeting 31 October 2006

3.

MANAGEMENT OF WATER AREAS

Note: Councillor Champion declared a personal interest in this item but remained in the meeting room throughout its discussion.

Consideration was given to a briefing note from the Leisure and Cultural Services Manager (a copy of which is attached to these minutes as Appendix A), which made proposals for progressing the way forward with regard to management of the designated water areas.

Members were advised that the proposals concerned the, as yet unnamed, twin lake area, which had been fished in the past and it was intended that it should continue as a fishing area.

Tenders for the management of the water areas had been invited from two clubs. A tender had been received from the Portsmouth and District Angling Club, the other club having not made a submission.

The Portsmouth and District Angling Club had been clear about how they proposed to manage the water areas but further clarification was still required on the procedure to review fees, the club's management structure, rule book and constitution, accounts for the past three years, insurance policy and current certificate, the form of supervision/ warden duties to be undertaken and the timetable of the proposed open/closed season dates with daily times where relevant.

The question of provision for disabled anglers was raised. This was covered minimally in the business plan summary, which contained nothing specific in this regard although, at their presentation in May 2005, the club had indicated that it had disabled people amongst its members.

The view was expressed that the Steering Group should look into the club's proposals before making a recommendation to the Community and Environment Board.

Members were advised that the club's intention was, once it had an agreement in principle with the Council, to carry out surveys and produce more specific proposals in negotiation with officers.

Concerns were expressed regarding access to membership and fishing at the lakes. Details of the club's booking scheme would be required.

Members agreed that the club should make a further presentation to the Steering Group before Christmas, to include more details of their proposals.

The Leisure and Cultural Services Manager undertook to circulate a copy of the report he had received via E mail on the proposals of Portsmouth and District Angling Club, which had been summarised in his briefing note. He would be asking for clarification on areas identified in the report as being unclear.

RESOLVED: That Portsmouth and District Angling Society be invited to make a presentation before Christmas, containing more details of their proposals, to a meeting of the Alver Valley Steering Group.

.....

Minutes of Meeting 04 December 2006

9.

MANAGEMENT OF ALVER VALLEY FISHING LAKE

At the meeting of the Steering Group on 31 October 2006, the Steering Group had identified a number of issues within the proposal from Portsmouth & District Angling Club on which they sought further clarification.

It had been agreed that a further meeting would be held prior to Christmas 2006 to which the Club would be invited so that they could respond to Members' queries and enable a decision to be reached on the future management of the Fishing Lake

A list of queries which summarised the areas for clarification had been drafted and sent to the Club.

Consequently a presentation was made to the Steering Group by Ian Snook (Hon. Treasurer) and Dave Coombs (Hon Secretary) of the Club.

The presentation highlighted the areas of clarification identified by Members and provided the Club's response to each area. A copy of the presentation is attached in the Minute Book as Appendix A.

The Leisure and Cultural Services Manager advised Members that the length of lease being sought was for ten years.

The Head of Accountancy advised Members that he had studied the Club's accounts and could report that they appeared to be sound. The Club had been established in 1948 and managed 22 lakes and rivers. Satisfactory references had been obtained from Portsmouth City and

Hampshire County Councils. As a matter of formality, a copy of the Club's latest bank statement was requested.

In answer to questions from Members and officers, the representatives of the Club responded as follows:

- Subscriptions were based and calculated on the previous year's income and expenditure together with the forecast the following year. The current annual subscription was £76 which allowed fishing in other waters managed by the Club. There was an emergency fund to which the subscriptions contributed.
- The Club was independent but was supported by the Hants and Sussex Anglers Alliance, which had been formed 30 years ago to help safeguard smaller clubs although it would be disbanding soon. 87.5% of income was held by the Alliance.
- Supervision was provided by wardens supported by bailiffs. The system appeared to work well. A warden would be nominated for the Alver Valley Fishing Area.
- The close season would be from 1 February to 31 March inclusive. Any infringement of this rule by a Club member would result in the perpetrator being requested to appear before the Disciplinary Committee.
- It was the intention of the Club to provide swim (fishing) stations and access to the lake suitable for disabled people. There was a road running to the lake which could be used as the means of access although suitable gates would be installed to prevent unauthorised entry to the Country Park. Club members and officers of Gosport Borough Council would hold keys to the gates.
- At present only one site needed to be booked in advance by Club members. This was due to a limited number of swim stations at the site.
- Where there were instances of anti-social behaviour at fishing sites, the Club could call on the police for assistance if necessary or the Environment Agency, who had powers of confiscation.

Officers advised that the road referred to ran through the Country Park and on to Apple Dumpling Bridge. It was anticipated that it would be kept in use for service reasons.

The Chairman thanked Messrs Snook and Coombs for their presentation and their contribution to the meeting. They then left the meeting prior to final discussions by the Steering Group

Members were advised that ten years would appear to be an

appropriate length of lease as the Club probably had five years of work to carry out at the site. Any agreement would provide that the Council have the right to terminate for breaches and appropriate clauses would be inserted to protect the Council's interests.

Officers advised that the Council did not have ownership of all the areas it needed to permit public access to all of the Alver Valley. Granting access would tie in with the transfer of ownership of land from Persimmon to the Council. If matters progressed smoothly it may be possible to seek co-operation from Persimmon to allow the Club to access the lake at an early stage to survey the range of work tasks required.

RESOLVED: That the proposal for the Council to enter into a 10 year lease agreement with the Portsmouth & District Angling Club be recommended to the Community and Environment Board for approval.