

CABINET	
Date of Meeting	Tuesday, 23 rd July 2024
Report Subject	Enforcement of Closure Notices and Closure Orders under The Anti-Social Behaviour, Crime and Policing Act 2014
Cabinet Member	Cabinet Member for Planning, Public Health and Public Protection
Report Author	Chief Officer (Planning, Economy and Environment)
Type of Report	Operational

EXECUTIVE SUMMARY

The purpose of the report is to request authority for the Chief Officer for Planning, Environment and Economy to be delegated to exercise the Council's powers in relation to Closure Notices and Orders, under the Anti-Social Behaviour, Crime and Policing Act 2014.

A Closure Notice can be issued for up to 48 hours if the Council or Police are satisfied on reasonable grounds:

- that the use of a particular premises has resulted, or (if the notice is not issued) is likely soon to result in nuisance to members of the public; or
- that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

RECOMMENDATIONS

1	That the Chief Officer for Planning, Environment and Economy on behalf of Flintshire County Council be given delegated authority to issue Closure Notices under section 76 of The Anti-Social Behaviour, Crime and Policing Act 2014 and authorise officers to enforce, closure orders, in accordance with the Anti-social Behaviour, Crime and Policing Act 2014.
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REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND TO THE PROPOSALS
1.01	<p>The Anti-Social Behaviour Crime and Policing Act 2014 came into effect on the 20th October 2014. It proposed several reforms to the existing legislation that sought to put the victim at the heart of the response to anti-social behaviour, by providing professionals and organisations with greater flexibility to deal with any given situation.</p>
1.02	<p>In March 2015 Cabinet supported recommendations that the then Chief Officer for Planning and Environment and the Chief Officer for Community and Enterprise be given delegated authority to authorise officers to serve Community Protection Notices and, Fixed Penalty Notices in the event of a breach, in accordance with the 2014 Act . Furthermore, it supported the recommendation that the Chief Officer for Planning and Environment be given delegated authority to designate and approve Public Space Protection Orders on behalf of Flintshire County Council and authorise officers to enforce, identified prohibited activities in areas designated by such Orders, in accordance with the Act.</p>
1.03	<p>Part 4 of the Act includes powers for Local Authorities and Police to issue Closure Notices and Closure Orders on premises that are deemed to be causing nuisance and or disorder. These are entirely separate to the other powers that come under the Act.</p>
1.04	<p>To date no delegated powers have been given to any officers in relation to Closure Notices and Closure Orders, although the legislation already confers the power to the Chief Executive (Head of Paid Service).</p>
1.05	<p>A Closure Notice can be issued for up to 48 hours if the Council or Police Officer (of at least the rank of Inspector) is satisfied on reasonable grounds:</p> <ul style="list-style-type: none">• that the use of particular premises has resulted, or (if the notice is not issued) is likely soon to result, in nuisance to members of the public; or• that there has been, or (if the notice is not issued) is likely soon to be, disorder near those premises associated with the use of those premises and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring. <p>A Closure Notice can be issued in the first instance for up to a maximum of 48 hours by the Council's Chief Executive (Head of Paid Service) or designate thereof, or by a Police Superintendent.</p>
1.06	<p>A Closure Order can subsequently be issued if the court is satisfied:</p> <ul style="list-style-type: none">• that a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive, or criminal behaviour on the premises; or

	<ul style="list-style-type: none"> • that the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public; or • that there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance, or disorder from continuing, recurring or occurring.
1.07	<p>Closure Notices can last for either 24 or 48 hours. In relation to the issuing of Closure Notices, the Government guidance states:</p> <p><i>The level or role of employee within the Council who can issue a notice for up to 24 hours has not been specified due to the different structures in place in different areas. In considering who should be authorised as designates of the chief executive officer for the issuing of the 48-hour notice, councils will also want to consider who is delegated to issue the Closure Notice for 24 hours and consider whether the extension to 48 hours should be authorised by an officer of greater seniority, as is the case for the Police. This may take into consideration the need for the power to be used quickly, its flexible nature, and equivalent requirement for a police inspector to issue a Closure Notice for 24 hours.</i></p>
1.08	<p>Once a 48-hour Closure Notice has been issued to a premises the Local Authority or Police have 48 hours in which to put the matter before a magistrate’s court to apply for a closure order on the premises. The Closure order, if granted, will last for three months, but a further application for an extra three months can be applied for.</p>
1.09	<p>A Closure Notice cannot prohibit access in respect of anyone who habitually lives on the premises. This means that the Notice cannot prohibit those who routinely or regularly live at those premises. It is therefore unlikely to disallow access to, for example, students who live away from the family home for part of the year, but routinely return to the family home or those who spend most of the week living at the pub in which they work. However, a Closure Order, granted by the court, can prohibit access to those who routinely live at the premises.</p>
1.10	<p>A Closure <i>Notice</i> cannot be appealed; however, a Closure <i>Order</i> can be appealed. Appeals are to the Crown Court and must be made within 21 days, beginning with the date of the decision to which the appeal relates. For example, if an Order is made on 1st of the month, then an appeal would have to be lodged with the court by 22nd of the month.</p>
1.11	<p>The power to issue Closure Notices and Orders on premises where there is anti-social behaviour is an effective alternative enforcement tool that the authority can use to combat such behaviour. It can be used in relation to shops selling illicit goods such as tobacco, vapes or alcohol, licensed premises that fail to address bad behaviour caused by their customers and any other premises where there is persistent anti-social behaviour.</p> <p>the Act states that “premises” includes:</p>

	<p>(a) any land or other place (whether enclosed or not);</p> <p>(b) any outbuildings that are, or are used as, part of premises;</p> <p>Which means that Closure Notices and Orders can be placed on outdoor areas but the practicalities of trying to enforce such an order on an outdoor area would have to be considered.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	Officer time gathering and compiling the evidence. There is a fee of £260 to be paid to the Court to hear the application for a Closure Order, which would also require assistance from Legal Services. The cost of the application fee is non recoverable. Any appeals against closure orders are heard in the Crown Court and will incur legal costs.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	<p>The recommendation has been considered and endorsed by the Environment and Economy Overview and Scrutiny Committee on 16th July 2024. At the committee members asked a number of questions and these have been addressed in this amended report. The questions members asked were :</p> <p>Could the committee wait to approve the report until after the issue with the Dog Control PSPO had been resolved? This has been addressed in section 1.03.</p> <p>Who can sign Closure Notices if the Chief Officer for Planning, Environment and Economy is absent for a length of time? This is addressed in section 1.04.</p> <p>Can Closure Notices and Orders be issued to areas such as children’s play areas or market stalls? This is addressed in section 1.11.</p> <p>Is the court cost of applying for Closure Order recoverable by the County Council? This is addressed in section 2.01.</p>

4.00	RISK MANAGEMENT
4.01	Any risks could be financial and reputational should an order be successfully appealed in the Crown Court. Officers with enforcement experience would consult with Legal, other relevant Council services and North Wales Police before a decision was made to pursue a closure notice and order. Experienced, competent officers will be carrying out these duties and will liaise with Legal well in advance of any action. Legal have been consulted and confirmed they are able to give the support required with proper notice.

6.00	APPENDICES
6.01	<p>Statutory Guidance</p> <p>https://assets.publishing.service.gov.uk/media/6422a19b60a35e00120cae63/2023_Update_ASB_Statutory_Guidance_-_FINAL_1_.pdf</p>

7.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
7.01	<p>Contact Officer: Richard Powell Trading Standards Investigations & Community Safety Manager</p> <p>Telephone: 01352 703198</p>

8.00	GLOSSARY OF TERMS
8.01	None.