

TAFLEN BENDERFYNIAD AELOD CABINET
CABINET MEMBER'S DECISION NOTICE
(Dyddiad Cyhoeddi: 26/07/2016)

Pwnc/Subject :

Deddf Ymddygiad Gwrth-gymdeithasol, Trosedd a Phlismaona 2014.

Anti-social Behaviour, Crime and Policing Act 2014.

Penderfyniad/Decision :

Diwygio Cynllun Dirprwyo Swyddogion drwy ddirprwyo swyddogaethau Cabinet penodol i'r Pennaeth Oedolion, Iechyd a Llesiant yn unol ag Atodiad 1, i'r Pennaeth Priffyrdd a Bwrdeistrefol yn unol ag Atodiad 2, a'r Pennaeth Rheoleiddio yn unol ag Atodiad 3.

To amend the Officers Scheme of Delegation by delegating certain Cabinet functions to the Head of Adults, Health and Wellbeing in accordance with Appendix 1, to the Head of Highways and Municipal in accordance with Appendix 2, and to the Head of Regulatory in accordance with Appendix 3.

Cyflwyniad/Introduction

Daeth y Ddeddf Ymddygiad Gwrth-gymdeithasol, Troseddu a Phlismaona 2014 ("Deddf 2014") i rym ar 20 Hydref 2014. Nod y ddeddf yw cyflwyno unigolion a sefydliadau gyda rhagor o hyblygrwydd wrth daclo ymddygiad gwrth-gymdeithasol. Mae'r ddeddf yn diddymu nifer o hen rymoedd mewn deddfau amrywiol ac yn eu disodli gyda chyfres o rymoedd newydd, mwy syml a hyblyg.

Mae Deddf 2014 yn cyflwyno dau rym newydd i awdurdodau lleol sydd yn disodli hen rymoedd a defnyddiwyd gan swyddogion. Y grymoedd newydd hynny yw y **rhybudd gwarchod y gymuned** a'r **rhybudd cau**. Mae'r cyfansoddiad yn caniatáu i Arweinydd y Cyngor addasu'r Cynllun Dirprwyo sydd ynglŷn â phwerau gweithredol (Adran 5 para 5.8.3). Mae gofyn ei fod yn adrodd ar y newidiadau i'r cyfarfod nesaf o'r Cyngor wedi'r penderfyniad.

The Anti-social Behaviour, Crime and Disorder Act 2014 ("the 2014 Act") came into force on 20 October 2014. The aim of the act is to provide individuals and organisations with further flexibility in tackling anti-social behaviour. The act replaces a number of old powers in various acts, replacing them with a series of new, simpler and more flexible powers.

*The 2014 Act introduces two new powers for local authorities which replace old powers used by officers. Those new powers are the **community protection notice** and **closure notice**. The constitution allows the Council Leader to amend the Scheme of Delegation in respect of executive powers (Section 5 para 5.8.3). The Leader will need to report the changes at the next Council meeting following the decision.*

Rhybudd gwarchod y gymuned / Community protection notice

Bwriad rhybudd gwarchod y gymuned yw ymdrin â phroblemau neu niwsans penodol, parhaus sydd yn effeithio yn negyddol ar ansawdd bywyd y gymuned gan dargedu'r sawl sydd yn gyfrifol. Mae hyn yn cynnwys graffiti, sbwriel a sŵn. Nid yw rhybudd gwarchod y gymuned yn esgusodi'r Cyngor o'i ddyletswydd i gyhoeddi rhybudd atal pan fo'r ymddygiad yn cyfri fel niwsans statudol at ddibenion Rhan 3 o Ddeddf Gwarchod yr Amgylchedd 1990 ("Deddf 1990").

Gellir cyhoeddi rhybudd gwarchod y gymuned os yn fodlon ar sail rhesymol bod ymddygiad unigolyn, busnes neu sefydliad:

1. Yn cael effaith niweidiol ar ansawdd bywyd rheiny yn y gymuned;
2. Yn barhaus ei natur; ac
3. Yn afresymol.

Mae hawl apelio. Gall diffyg cydymffurfiaeth â rhybudd gwarchod y gymuned arwain at y sancsiynau canlynol: erlyniad am drosedd o ddiffyg cydymffurfio, cyhoeddi rhybudd cosb benodedig, gwneud gwaith mewn diffyg, gorchmynion adfer, gorchmynion fforffedu, gorchmynion adafael.

Mae rhybudd gwarchod y gymuned yn disodli grym swyddogion awdurdodedig y Cyngor i gyhoeddi rhybudd atal sbwriel o dan adran 92 o Ddeddf 1990, rhybudd clirio sbwriel o dan adran 92A o'r Ddeddf 1990, rhybudd rheoli sbwriel stryd o dan adran 93 o Ddeddf 1990, a rhybudd gwared â difwyno o dan adran 48 o'r Ddeddf Ymddygiad Gwrth-gymdeithasol 2003 ("Deddf 2003").

Mae'r grymoedd a ddisodlwyd wedi cael eu defnyddio gan swyddogion awdurdodedig o'r Adran Priffyrdd a Bwrdeistrefol ac felly mae angen i'r

adran fod â'r grym i gyhoeddi rhybudd gwarchod y gymuned. Mae'r Adran Reoleiddio hefyd angen y grym i gyhoeddi rhybudd gwarchod y gymuned er mwyn ymdrin yn effeithiol â sefyllfaoedd lle mae ymddygiad gwrth-gymdeithasol sydd yn fyr o fod yn niwsans statudol.

The community protection notice is intended to deal with specific, persistent problems or nuisances which negatively affect the quality of life of the community by targeting the responsible party. This includes graffiti, litter and noise. A community protection notice does not relieve the Council from its duty to issue an abatement notice when the conduct amounts to a statutory nuisance for the purposes of Part 3 of the Environmental Protection Act 1990 ("the 1990 Act").

A community protection notice may be issued if it is satisfied on reasonable grounds that an individual, business or organisation's conduct:

- 1. Is having a detrimental effect on the quality of life of those in the community;*
- 2. Is constant in nature, and*
- 3. Is unreasonable.*

There is a right of appeal. Non-compliance with the community protection notice may lead to the following sanctions: prosecution for the offence of failing to comply, issuing of a fixed penalty notice, carrying out of works in default, remedial orders, forfeiture orders, seizure orders.

The community protection notice replaces the power of authorised officers of the Council to issue a litter abatement notice under section 92 of the 1990 Act, litter clearing notice under section 92A of the 1990 Act, street litter control notice under section 93 of the 1990 Act, and defacement removal notice under section 48 of the Anti-social Behaviour Act 2003 ("2003 Act").

The superseded powers have been used by authorised officers of the Highways and Municipal Department, therefore the department needs the power to issue a community protection notice. The Regulatory Department also needs the power to issue a community protection notice in order to deal effectively with situations where there is anti-social behaviour short of amounting to a statutory nuisance.

Rhybudd cau / Closure notice

Pwrpas y rhybudd cau yw caniatáu'r Cyngor neu'r Heddlu gau eiddo yn sydyn lle defnyddir yr eiddo, neu mae'n debygol y defnyddir yr eiddo, i

gyflawni trosedd ac anhrefn. Bydd rhybudd o'r fath yn weithredol am hyd at 48 awr. Yn dilyn hynny gellir os oes angen gwneud cais i'r Llys Ynadon am orchymyn cau, a all fod mewn grym am hyd at 6 mis. Mae torri naill ai'r rhybudd neu'r gorchymyn cau yn drosedd.

Mae'r grym rhybudd cau yn disodli'r grym i gyhoeddi rhybudd o dan adrannau 1 neu 11A o Ddeddf 2003.

Mae'r adrannau Rheoleiddio ac Oedolion, Iechyd a Llesiant angen y grym i gyhoeddi rhybudd cau, er mwyn ymdrin â sefyllfaoedd lle fydd angen gweithredu yn sydyn i atal niwsans o eiddo lle mae llawer o bobl wedi ymgynull, e.e. parti swnllyd.

The purpose of a closure notice is to allow the Council or Police to close premises quickly where the premises is used, or likely to be used, to commit crime and disorder. Following this period an application may be made if necessary to the Magistrates' Court for a closure order, which may be in force for up to 6 months. Breach of either the notice or order is a criminal offence.

The closure notice power replaces the power to issue a notice under section 1 or 11A of the 2003 Act.

The Regulatory and Adults, Health and Wellbeing departments need the power to issue a closure notice, in order to deal with situations where swift action needs to be taken to prevent nuisance from premises where a crowd of people have gathered, e.g. a noisy party.

Rhesymau dros y penderfyniad/Reasons for the decision

I sicrhau fod y swyddogaethau yn cael eu dirprwyo i'r swyddogion cywir er eglurdeb a phriodoldeb penderfyniadau.

To ensure that the functions are delegated to the appropriate officers to provide certainty and propriety in relation to decisions.

Relevant Considerations/Ystyriaethau Perthnasol

Camau nesaf/Next steps

Gweithredu'r penderfyniad yn unol â gofynion y cyfansoddiad.

Implement the decision in accordance with the requirements of the Constitution

Atodiadau/Attachments

Addasiadau i'r Cynllun
Revisions to the Scheme

Barn y swyddogion statudol / Views of statutory officers

Y Prif Weithredwr/Chief Executive:

Dim i'w ychwanegu

Nothing to add.

Y Swyddog Monitro/Monitoring Officer:

Awdur y Daflen

Author of the Notice

Y Pennaeth Cyllid/Chief Finance Officer:

Rwy'n cefnogi'r bwriad i ddirprwyo'r grym i gyhoeddi rhybuddion gwarchod y gymuned a rhybuddion cau, er mwyn sicrhau trefn addas yn sgil Deddf 2014. Ni fydd unrhyw ymhlygiad ariannol i'r Cyngor o ddirprwyo'r rôl yn y drefn yma o'r Cabinet i swyddogion penodol.

I support the intention to delegate the power to issue community protection notices and closure notices, in order to ensure a suitable arrangement following the 2014 Act. There will be no financial implication at all to the Council from delegating this role in this manner from the Cabinet to specific officers.

Barn yr aelod lleol/View of Local Member

Dim yn fater lleol

Not a local matter

Goblygiadau Polisi/Policy Implications

Dim / None

Llofnod yr aelod / Signed by member



Arweinydd y Cyngor /Council Leader

Dyddiad/Date 26/7/16

ATODIAD 1 / APPENDIX 1:

Yn Atodiad 3 i Adran 13, mewnosod y paragraff canlynol ar ôl paragraff 8.17:

“8.18 Pŵer i gyhoeddi rhybuddion cau o dan Rhan 4 o’r Ddeddf Ymddygiad Gwrth-gymdeithasol, Trosedd a Phlisma 2014.”

In Appendix 3 to Section 13, insert the following paragraph after paragraph 8.17:

“8.18 Power to issue closure notices under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.”

ATODIAD 2 / APPENDIX 2:

Yn Atodiad 3 i Adran 13, mewnosod y paragraff canlynol ar ôl paragraff 10.7:

“10.8 Pŵer i gyhoeddi rhybuddion gwarchod y gymuned o dan Rhan 4 o’r Ddeddf Ymddygiad Gwrth-gymdeithasol, Trosedd a Phlisma 2014.”

In Appendix 3 to Section 13, insert the following paragraph after paragraph 10.7:

“10.8 Power to issue community protection notices under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.”

ATODIAD 3 / APPENDIX 3:

Yn Atodiad 3 i Adran 13, mewnosod y paragraff canlynol ar ôl paragraff 11.17:

“11.17A Pŵer i gyhoeddi rhybuddion gwarchod y gymuned o dan Rhan 4 o’r Ddeddf Ymddygiad Gwrth-gymdeithasol, Trosedd a Phlisma 2014.

11.17B Pŵer i gyhoeddi rhybuddion cau o dan Rhan 4 o’r Ddeddf Ymddygiad Gwrth-gymdeithasol, Trosedd a Phlisma 2014.”

In Appendix 3 to Section 13, insert the following paragraph after paragraph 11.17:

“11.17A Power to issue community protection notices under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

11.17B Power to issue closure notices under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.”